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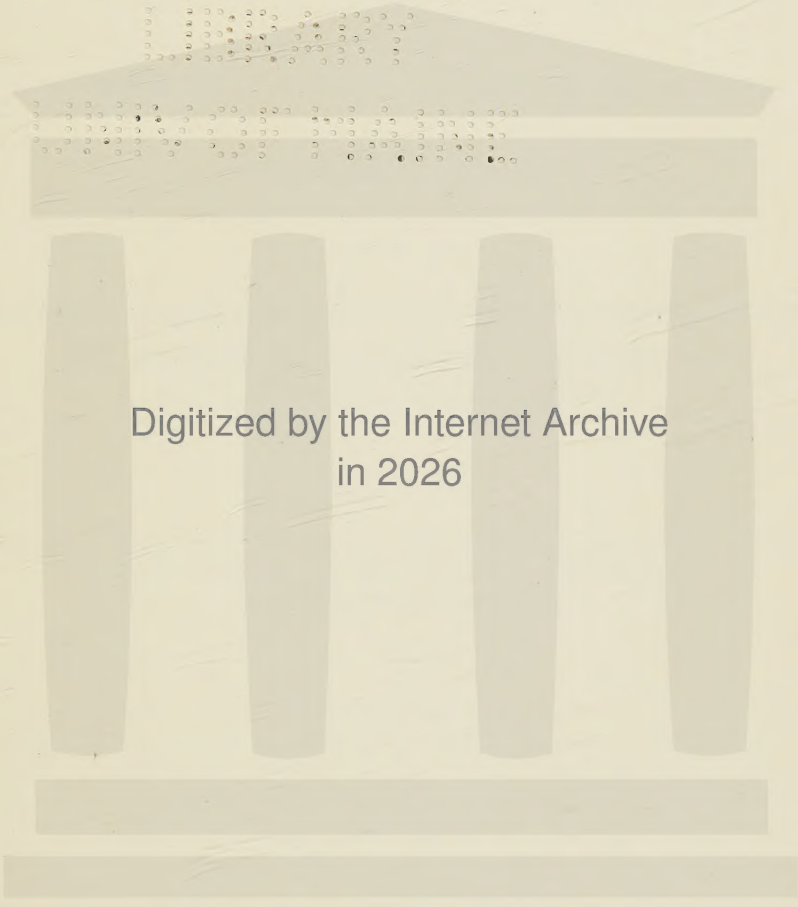

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SUPPLEMENT

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DIPLOMATIC CORRESPONDENCE BETWEEN THE UNITED STATES AND BELLIGERENT GOVERNMENTS RELATING TO NEUTRAL RIGHTS AND COMMERCE

NOTE—This Supplement is separately paged and sewed, in order that these original texts may be bound by themselves. The index to this volume includes also the Special Supplement for July, 1915.

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NOTICE

The documents published in this volume have been printed from official texts furnished by the Department of State of the United States.

LIST OF PAPERS.

PART I.

Declaration of London.

No.	From and to whom.	Date.	Subject.	Page.
		1915.		
	Ambassador Sharp to the Secretary of State.	Oct. 26	Quotes decree modifying article 57 of the Declaration of London.	1
2425	Ambassador W. H. Page to the Secretary of State.	Oct. 29	Transmits text of the Order in Council dated October 20, 1915, in which article 57 of the Declaration of London is abrogated.	1
		1916.		
	Consul General Skinner to the Secretary of State.	Mar. 31	Sets forth important modifications to Declaration of London, Order in Council No. 2, of October 29, 1914.	3
1545	Consul General Skinner to the Secretary of State.	Apr. 3	Transmits official text of Order in Council of March 30, 1916, modifying the Declaration of London Order in Council No. 2, 1914.	3
4181	Ambassador W. H. Page to the Secretary of State.	July 10	Transmits text of Order in Council of July 7, 1916, withdrawing certain prior Orders in Council relating to the Declaration of London, together with a memorandum of the British Government explaining the issue of the said Order.	5

57,957

Declaration of London—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1916.		
3392	Ambassador Sharp to the Secretary of State.	July 11	Transmits copy of Decree of July 7, 1916, withdrawing certain prior decrees relating to the Declaration of London, together with a report to the President of France and memorandum of the French Government explaining the promulgation of the said Decree.	9

Part II.

Contraband of War.

		1915.		
1512	Ambassador W. H. Page to the Secretary of State.	May 29	Transmits text of proclamation giving additions to contraband list.	14
	Ambassador W. H. Page to the Secretary of State (telegram).	Aug. 24	Quotes text of proclamation placing cotton and cotton products on list of absolute contraband.	15
2365	Ambassador W. H. Page to the Secretary of State.	Oct. 18	Transmits copies of revised contraband list.	16
2604	Do.....	Nov. 30	Transmits copies of revised list of contraband.	20
		1916.		
1140	Consul General Skinner to the Secretary of State.	Feb. 1	Transmits text of proclamation of Jan. 27, 1916, giving additions to British contraband list.	48
3506	Ambassador W. H. Page to the Secretary of State.	Apr. 18	Transmits copies of the proclamation of Apr. 12, 1916, making additions to and amendments in the contraband list.	50
	The Consulate General at London to the Secretary of State.	Apr. 20	Reports the issuance of a White Paper by the British Foreign Office abolishing the distinction between absolute and conditional contraband.	51

Part III.

Restraints on Commerce.

No.	From and to whom.	Date.	Subject.	Page.
		1915.		
1468	Ambassador W. H. Page to the Secretary of State.	May 20	Transmits memorandum and note verbale respecting American ships and cargoes detained at British ports.	58
	Ambassador Page to the British Secretary of State for Foreign Affairs.	June 3	Requests information regarding the amount of raw cocoa exported from Great Britain to Holland, Denmark, Sweden, Norway, and Italy during the four months ending April 30, 1915.	63
	Note Verbale from the British Embassy.	Aug. 6	Note Verbale of August 6, 1915, from the British Embassy concerning the S. S. *Neches*.	63
	The British Secretary of State for Foreign Affairs to Ambassador Page.	Aug. 13	Replies to request for information regarding the amount of raw cocoa exported from Great Britain to Holland, Denmark, Sweden, Norway, and Italy.	64
	Memorandum from the British Embassy.	Oct. 12	British contention relating to prize-court proceedings concerning seizure of cargoes consigned by American meat packers to Scandinavian ports.	69
	The Secretary of State to Ambassador W. H. Page.	Oct. 21	American note of October 21, 1915, to Great Britain relating to restraints on commerce and enclosing United States Navy order of August 18, 1862, and a statement regarding vessels detained by British authorities.	73

Restraints on Commerce—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1915.		
2559	Ambassador W. H. Page to the Secretary of State.	Nov. 18	Transmits copies of Orders in Council of November 10, 1915, regarding the "Requisition of ships (carriage of foodstuffs)" and "Carriage of cargoes on British vessels between foreign ports."	107
		1916.		
	Ambassador W. H. Page to the Secretary of State (telegram).	Jan. 19	British trading with the enemy (extension of powers) act of 1915.	111
	The Secretary of State to Ambassador W. H. Page (telegram).	Jan. 25	Instructs him to bring to attention of British Government that the enemy trading act, approved December 23 last, is pregnant with possibilities of undue interference with American trade, etc.	112
3092	Ambassador W. H. Page to the Secretary of State.	Feb. 19	Transmits copy of note dated the 16th instant from the foreign trade department of the Foreign Office in connection with the trading with the enemy (extension of powers) act, 1915.	113
3093	Ambassador W. H. Page to the Secretary of State.	Feb. 19	Reports facts with reference to goods belonging to American citizens detained by the British authorities and placed in the prize court.	115
1248	Consul General Skinner to Secretary of State.	Feb. 24	Transmits copy of a letter from the American consular agent at Kirkwall setting forth the routine practice of the British authorities on the arrival of vessels diverted to that port by the Admiralty.	117

Restraints on Commerce—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1916.		
3374	The Acting Secretary of State to Ambassador W. H. Page.	Mar. 16	Incloses copy of letter sent by the department to the William Amer Company with reference to detention of goods belonging to American citizens detained by the British authorities in the prize court.	118
107	The British Ambassador to the Secretary of State.	Apr. 24	Transmits memorandum embodying the reply to the representations of the United States Government in regard to restrictions on trade.	120
	The Secretary of State to the British Ambassador.	May 10	States the position of the American Government with reference to the detention of certain vessels belonging to the American Transatlantic Company.	145
	The Acting Secretary of State to Ambassador W. H. Page	July 26	Instructs him to call attention to the serious consequences to neutrals of the "black-list."	148

Part III-A.

Case of the American Steamship "Joseph W. Fordney" in British Prize Court.

		1915.		
	The Secretary of State to Ambassador W. H. Page (telegram).	Apr. 14	States that the facts in the case of the *Joseph W. Fordney* indicate that the vessel was seized without right and instructs him to ask for immediate release of the vessel if she carried no contraband shipment.	151

American Steamship "Joseph W. Fordney"—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1915.		
	Ambassador W. H. Page to the Secretary of State (telegram).	Apr. 19	States that British Government has decided to discharge cargo on *Joseph W. Fordney* on ground that it is believed to be intended for Germany.	152
	The Secretary of State to Ambassador W. H. Page (telegram).	Apr. 27	States that reply of the British Government in the case of the *Joseph W. Fordney* is not satisfactory and instructs him again to bring the case to the attention of the British Government.	152
	Ambassador W. H. Page to the Secretary of State (telegram).	Apr. 27	States that British Government have decided to detain the cargo of the *Fordney* on ground that the ostensible consignee does not exist at the port to which the bills of lading were made out.	153
	Ambassador W. H. Page to the Secretary of State (telegram).	May 4	Informs department he has requested the legation at Stockholm to make investigation of the matter of the consignee of cargo of *Joseph W. Fordney*, etc.	153
	Ambassador W. H. Page to the Secretary of State (telegram).	May 18	Informs him that British Foreign Office states that the British Government has evidence that the cargo was not destined for bona fide Swedish consumption, but was intended for Germany.	153
	The Secretary of State to Ambassador W. H. Page (telegram).	May 21	Informs him that department has affidavit of captain of vessel that he made no effort to evade British patrol ship.	154

American Steamship "Joseph W. Fordney"—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1915.		
	Consul General Skinner to the Secretary of State (telegram).	June 12	States that writ has been issued against owners of goods on *Joseph W. Fordney.*	154
1873	Ambassador W. H. Page to the Secretary of State.	July 26	Transmits copy of a note from the British Foreign Office regarding the affidavit of the captain of the vessel stating that no effort had been made to elude the British patrol boat.	154
2299	Ambassador W. H. Page to the Secretary of State.	Oct. 8	Transmits copy of a communication from Mr. Arthur Garfield Hays in reference to the proceedings involved in the case of the steamship *Joseph W. Fordney,* together with a copy of a note from the British Foreign Office in regard thereto.	156
	The Secretary of State to Ambassador W. H. Page (telegram).	Nov. 3	Directs him to renew request for the release of the cargo because of the statement of the British Government that the cargo was illegally seized.	157
	Ambassador W. H. Page to the Secretary of State (telegram).	Nov. 27	States the Foreign Office regrets that it is impossible to depart from intention to continue proceedings for condemnation of cargo of steamship *Joseph W. Fordney,* in the prize court.	158
		1916.		
	The Secretary of State to Ambassador W. H. Page (telegram).	Apr. 13	Says proceedings are equivalent to a denial of justice, and instructs him to say to the British Government that the United States Government considers it-	159

American Steamship "Joseph W. Fordney"—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1916.	self entitled to receive a statement from the British Government as to how such a seizure and prize court procedure are warranted by the evidence submitted.	
	Ambassador W. H. Page to the Secretary of State (telegram).	May 9	States that the British Government must decline to enter into any discussion of points which are awaiting decision in a case pending in the prize court.	160

Part IV.

Submarine Warfare

1. Correspondence with Germany Regarding Submarine Interferences with Commercial Vessels.

	1915.		
Ambassador Gerard to the Secretary of State (telegram).	May 9	Transmits statement from German Foreign Office relative to attacks made by mistake on neutral vessels of commerce by German submarines.	161
Ambassador Gerard to the Secretary of State (telegram).	July 12	Transmits memorandum from German Foreign Office relative to the damaging of the American steamer *Nebraskan* by a German submarine.	162
Consul Dennison to the Secretary of State (telegram).	July 26	Reports sinking of *Leelanaw* on July 25 by German submarine; crew safe.	163
Consul General Skinner to the Secretary of State (telegram).	July 26	The same as above.....	163

Submarine Warfare—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1915.		
	Consul General Skinner to the Secretary of State (telegram).	July 27	States crew of *Leelanaw* had ample time to leave ship before fired on; crew now on way to Dundee.	164
	Ambassador Page to the Secretary of State (telegram).	July 27	Reports communication from the British Admiralty to Sir Edward Grey.	164
	Consul Dennison to the Secretary of State (telegram).	July 28	Reports the conditions surrounding the sinking of the *Leelanaw*.	164
	The Secretary of State to Ambassador Gerard (telegram).	July 31	Requests a full report on sinking of *Leelanaw* and certified copy of ship's papers.	165
	Ambassador W. H. Page to the Secretary of State.	Aug. 19	Reports the sinking of the *Arabic*	165
	The German Ambassador to the Secretary of State (telegram).	Aug. 24	Transmits from German Government communication regarding the sinking of the *Arabic*.	166
	The German Ambassador to the Secretary of State.	Sept. 1	Informs him concerning instructions in connection with the German Government's answer to last *Lusitania* note, quoting a passage therefrom concerning "Liners."	166
J. Nr. A5476	The German Ambassador to the Secretary of State.	Sept. 4	Informs Department that British merchant vessels which attack German submarines expose themselves to the danger of destruction and that American citizens who travel on such vessels do so on their own responsibility.	167
	Ambassador Gerard to the Secretary of State.	Sept. 7	Transmits report from the German Foreign Office of the sinking of the *Arabic*.	167
1507	Ambassador Gerard to the Secretary of State.	Sept. 11	Transmits report from the German Foreign Office on the attack on the steamer *Orduna*.	168

Submarine Warfare—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1915.		
	The Secretary of State to Ambassador Gerard (telegram).	Sept. 14	Transmits summary of the evidence concerning the sinking of the *Arabic* with instructions to deliver it to the German Foreign Foreign Office.	170
	The German Ambassador to the Secretary of State.	Oct. 5	States that the German Government regrets and disavows the sinking of the *Arabic* and is prepared to pay an indemnity for the American lives lost on the *Arabic*.	172
	The Secretary of State to the German Ambassador.	Oct. 6	Acknowledges receipt of note of October 5, and states that he is prepared to negotiate concerning the amount of the indemnity to be paid for the loss of American lives on the *Arabic*.	173
	Ambassador Gerard to the Secretary of State (telegram).	Oct. 19	Transmits text of note from German Foreign Office expressing views of German Government in the *Leelanaw* case.	173
1672	Ambassador Gerard to the Secretary of State.	Oct. 19	Transmits note verbale from the Imperial Foreign Office relating facts of the sinking of the *Leelanaw* and the applicability of the German Prize Ordinance and the Declaration of London.	174
	Ambassador Gerard to the Secretary of State (telegram).	Oct. 30	Transmits text of note from German Foreign Office containing a discussion of the evidence of the sinking of the *Arabic*.	176
	Secretary of State to Ambassador Gerard (telegram).	Nov. 30	Directs him to inform Foreign Office that the United States objects to resort to	177

Submarine Warfare—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1916.		
			Prize Court in *Leelanaw* case and to suggest settlement by diplomatic negotiations.	
	Memorandum from the German Embassy.	Jan. 7	Communication from German Government relative to Germany's submarine policy.	177
J. Nr. A1601	Memorandum from the German Embassy.	Mar. 8	Memorandum from the German Embassy in connection with the U-boat question.	178
	Secretary of State to Ambassador Gerard (telegram).	Mar. 27	Directs him to inquire of the German foreign office whether a submarine belonging to Germany sunk the *Sussex*.	181
	Secretary of State to Ambassador Gerard (telegram).	Mar. 28	Instructs him to make inquiry of German authorities whether the *Englishman* was sunk by a German submarine.	182
	Secretary of State to Ambassador Gerard (telegram).	Mar. 29	Instructs him to make inquiry of the German foreign minister whether a submarine belonging to Germany or her allies sank the *Manchester Engineer*.	182
	Secretary of State to Ambassador Gerard (telegram).	Apr. 1	Instructs him to make inquiry of the German Government whether a submarine belonging to Germany or her allies torpedoed the *Eagle Point*.	182
	Secretary of State to Ambassador Gerard (telegram).	Apr. 1	Instructs him to make inquiry of the German Government whether a submarine belonging to Germany or her allies torpedoed the *Berwindvale*.	183

Submarine Warfare—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1916.		
3735	Ambassador Gerard to the Secretary of State (telegram).	Apr. 11	Transmits note from German foreign minister, replying to the notes of the 29th and 30th ultimo, on the subject of the steamers *Sussex*, *Manchester Engineer*, *Englishman*, *Berwindvale*, and *Eagle Point*.	183
	Secretary of State to Ambassador Gerard (telegram).	Apr. 18	Instructs him to deliver to the German foreign minister the communication on the *Sussex*, with statement of facts in the case.	186
3848	Ambassador Gerard to the Secretary of State.	May 4	Transmits reply of the German Government *re* steamship *Sussex* and announcing new orders issued to its naval forces.	195
	The Secretary of State to Ambassador Gerard (telegram).	May 8	Accepts German Government's declaration of its abandonment of policy and states it is taken for granted that it is not contingent on other diplomatic negotiations.	199
	The German Ambassador to the Secretary of State.	May 12	Informs Department of action of Dutch steamer in running toward German submarine and calls attention to danger incurred by neutrals by turning their ships on submarines.	200
	Ambassador Gerard to the Secretary of State.	Aug. 27	Transmits note from German Foreign Office regarding the firing upon the American steamer *Owego* by a German submarine.	201

Appendix A.

Evidence in the Arabic Case.

No.	From and to whom.	Date.	Subject.	Page.
		1915.		
2029	Ambassador W. H. Page to the Secretary of State.	Aug. 23	Transmits affidavits of six American passengers who were rescued from the steamship *Arabic*.	203
2035	Ambassador W. H. Page to the Secretary of State.	Aug. 24	Transmit affidavit of Capt. Finch, late of the steamship *Arabic*.	207
459	Consul Washington to the Secretary of State.	Aug. 25	Transmits affidavits of certain officers and members of the crew of steamship *Dunsley*, report of verbal interview with officers of said ship; and affidavit of F. F. Steele of steamship *Arabic*.	209
2052	Ambassador W. H. Page to the Secretary of State.	Aug. 27	Transmits affidavit of second officer, of the steamship *Dunsley*, regarding the sinking of the steamship *Dunsley* and the steamship *Arabic*.	215
2071	Ambassador W. H. Page to the Secretary of State.	Aug. 31	Transmits affidavit of chief officer of the steamship *Dunsley*, concerning the torpedoing of the steamship *Arabic*.	217
2072	Ambassador W. H. Page to the Secretary of State.	Aug. 31	Transmits affidavit of master of the steamship *Dunsley*, concerning the sinking of the steamship *Dunsley* and the steamship *Arabic*.	219
J. Nr. A6512	The German Ambassador to the Secretary of State.	Oct. 20	Transmits papers concerning the sinking of steamship *Arabic*.	220

Appendix B.

Evidence in the Sussex Case.

No.	From and to whom.	Date.	Subject.	Page.
		1916.		
	Ambassador Sharp to the Secretary of State (telegram).	Mar. 28	States that French foreign office informs him *Sussex* was not armed.	230
	Asst. Naval Attaché Smith to Ambassador Sharp	Mar. 30	Report of B. L. Smith, assistant naval attaché....	230
	Mr. de Margerie, of the French Ministry of Foreign Affairs, to Ambassador Sharp.	Mar. 29	States that the *Sussex* was unarmed.	232
		Mar. 25	Affidavit of Edward H. Huxley and Francis E. Drake	233
		Mar. 26	Affidavit of Edward Marshall	234
		Mar. 26	Deposition of Second Engineer Danger.....	242
		Mar. 26	Affidavit of Mark Baldwin..	243
		Mar. 27	Affidavit of Wilder G. Penfield.....	245
			Report of Capt. Mouffet...	246
		Mar. 27	Deposition of Gertrude Lehman Barnes.....	248
		Mar. 27	Deposition of Samuel Flagg Bemis.....	249
		Mar. 27	Deposition of Tingle Woods Culbertson.....	253
		Mar. 27	Deposition of Mrs. Calliope A. Fennell.....	255
		Mar. 27	Deposition of Daniel Sargent	257
		Mar. 27	Deposition of Gertrude Wenzlich Warren.....	259
		Mar. 27	Deposition of Edward Harold Williams-Ashman.....	260
		Mar. 28	Affidavit of Charles T. Crocker IIId.....	262
		Mar. 28	Deposition of Lilian S. Harde	262
		Mar. 28	Deposition of Edna S. Harde	264
		Mar. 28	Deposition of John H. Hearley.....	266
		Mar. 28	Deposition of Mrs. Dorothy W. Hilton.....	269

Submarine Warfare—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1916.		
		Mar. 28	Deposition of Edna Frances Hilton	271
		Mar. 28	Deposition of Norman Meikle	273
		Mar. 29	Affidavit of Henry S. Beer	274
		Mar. 29	Deposition of Edna Hale	275
		Mar. 31	Affidavit of Irima Ryckeboer	277
		Mar. 31	Report of Rear Admiral Grasset, of the French Navy	279
		Apr. 1	Report of Naval Attachés Sayles and Smith and Military Observer Logan to Ambassador Sharp	283
		Apr. 5	Report of Lieut. Commander Sayles and Lieut. Smith	287
		Apr. 6	Affidavit of Ida E. Beer	289
	The French Ambassador to the Secretary of State.	Apr. 9	States that the *Sussex* had never acted as a transport.	289
		Apr. 13	Report of Military Observer Logan and Assist. Naval Attaché Smith.	290
		Apr. 13	Report of Naval Attachés Sayles and Smith and Military Observer Logan to Ambassador Sharp.	293
3154	Ambassador Sharp to the Secretary of State.	May 4	Transmits report of French commission which examined the fragments of the torpedo found upon the *Sussex*.	295

2. Correspondence with Austria-Hungary regarding Submarine Interferences with Commercial Vessels.

		1915.		
	The Secretary of State to Ambassador Penfield (telegram).	Dec. 6	Instructs Ambassador to present protest to Austro-Hungarian Government against sinking steamship *Ancona* and to demand disavowal and reparation.	297

Submarine Warfare—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1915.		
	Ambassador Penfield to the Secretary of State (telegram).	Dec. 15	Transmits note from Minister for Foreign Affairs requesting further facts and legal basis of demands in American note.	298
1039	The Secretary of State to Ambassador Penfield.	Dec. 19	Replies to request of Austria-Hungary for further facts and legal basis of American demands.	300
	Ambassador Penfield to the Secretary of State (telegram).	Dec. 29	Transmits note from Austro-Hungarian Foreign Office communicating result of investigation of sinking of *Ancona*, justifying attack but accepting partial responsibility for losses of life.	301
		1916.		
	The Secretary of State to Ambassador Penfield (telegram).	April 17	Instructs Ambassador to obtain report from Austrian Government on destruction of Russian bark *Imperator* by an Austrian submarine.	305
	Ambassador Penfield to the Secretary of State (telegram).	May 3	Communicates report from Austrian Government on destruction of *Imperator*.	305
	The Secretary of State to Ambassador Penfield (telegram).	June 21	Communicates information concerning attack on the American steamer *Petrolite*, and instructs Ambassador to demand apology and reparation.	306

3. Correspondence Regarding Warfare between Submarines and Armed Merchant Vessels.

	The Secretary of State to the Ambassadors of Great Britain, France, Russia, Italy, and Belgium.	Jan. 18	Informal letter in which is presented a formula designed to bring submarine warfare within the rules of international law and the principles of humanity.	310

Submarine Warfare—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1916.		
	The Secretary of State to the Japanese Ambassador.	Jan. 24	Same, mutatis mutandis, as above.	310
1293	Ambassador Penfield to the Secretary of State.	Feb. 12	Transmits copy of a circular note verbale from the Austro-Hungarian Foreign Office on the treatment of armed merchantmen.	313
2451	Ambassador Gerard to the Secretary of State.	Feb. 14	Transmits copy of the memorandum of the German Government on the treatment of armed merchantmen.	314
	The German Ambassador to the Secretary of State.	Feb. 29	Advises of status of merchant vessels, and of English newspaper reports on armed merchantmen.	335
	The British Ambassador to the Secretary of State.	Mar. 23	Transmits memorandum declining to accede to proposals contained in informal letter of Jan. 18, 1916, concerning armed merchantmen and submarine warfare.	336
	The Secretary of State to the Ambassadors of Great Britain, France, Russia, Italy, and Belgium.	Apr. 7	Acknowledges with expression of regret that proposed arrangement was declined.	338
2880	Ambassador Gerard to the Secretary of State.	Apr. 11	Transmits copy of official order said to have been issued by the English Admiralty for armed English merchant vessels in the event of encountering hostile submarines.	339
	The Japanese Ambassador to the Secretary of State.	May 18	States that his Government is in full agreement with the allied Governments and unable to meet Mr. Lansing's suggestions.	340

Submarine Warfare—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1916.		
	The Secretary of State to the Japanese Ambassador.	June 1	Acknowledges note of May 18, 1916, with expression of regret that proposed arrangement was declined.	338

4. Status of Belligerent Submarines in Neutral Waters.

Memorandum from the French Embassy.	Aug. 21	Exhorts neutral Governments to take measures to prevent belligerent submarines from availing themselves of neutral waters.	342
Memorandum from the Italian Embassy.	Aug. 21	Same as above.....	342
Memorandum from the British Embassy	Aug. 22	Do.....	342
Memorandum from the Russian Embassy.	Aug. 26	Do.....	342
Memorandum from the Japanese Embassy.	Aug. 28	Do.....	342
Memorandum from the Portuguese Legation.	Aug. 30	Do.....	342
Memoranda to the embassies of France, Great Britain, Russia, and Japan.	Aug. 31	Informs the allied powers of the attitude of the United States toward belligerent submarines in neutral waters and reserves its liberty of action in all respects.	343
Memorandum to the Italian Embassy.	Sept. 8	Same, mutatis mutandis, as above.....	343
Memorandum to the Portuguese Legation.	Sept. 13	Do.....	343

Part V.

Destruction of American Merchantman "William P. Frye" by the German Ship "Prinz Eitel Friedrich."

No.	From and to whom.	Date.	Subject.	Page.
		1915.		
	Ambassador Gerard to the Secretary of State (telegram).	Sept. 20	Transmits note received from the Foreign Office in the *William P. Frye* case, relative to the ascertainment of damages, and agreeing to separate the question of indemnity from the question of interpretation of the Prussian-American treaties.	345
	The Secretary of State to Ambassador Gerard (telegram).	Oct. 12	Reply to the German note of Sept. 19, 1915.	347
1964	Ambassador Gerard to the Secretary of State (telegram).	Dec. 2	Transmits copy of note from German Foreign Office, dated Nov. 29, 1915, declining to accept the suggestion of the American Government that the experts who are to fix the amount of damages meet in Washington, and for the nomination of an umpire. The German Government submits a draft of a *compromis* relative to the interpretation of the Prussian-American treaties.	349

Part VI.

Exportation of Arms and Munitions of War.

88855	Austro-Hungarian Minister for Foreign Affairs to Ambassador Penfield.	Sept. 24	Replies to American note of Aug. 16, 1915, and adheres to the views set forth in the previous note from Austria No. 59465, dated June 29, 1915.	354

Part VII.

Recall of Dr. Constantin Theodor Dumba, Austro-Hungarian Ambassador at Washington.

No.	From and to whom.	Date.	Subject.	Page.
		1915.		
	The Secretary of State to Ambassador Penfield (telegram).	Sept. 8	Instructs him to request the recall of the Ambassador of Austria-Hungary.	361
	Ambassador Penfield to the Secretary of State (telegram).	Sept. 30	Reports receipt of a reply to Department's note of Sept. 8, 1915.	362

Part VIII.

Recall of Captain Von Papen, Military Attaché, and Captain Boy-Ed, Naval Attaché of the German Embassy at Washington.

1686	The Secretary of State to the German Ambassador.	Dec. 4	Confirms conversation and requests recall of Capt. Boy-Ed, naval attaché, and Capt. von Papen, military attaché.	363
	Do.....	Dec. 10	Refers to his statement of Dec. 1, in connection with recall of Capts. Boy-Ed and von Papen and urges immediate action.	364
J. Nr. A8061	The German Ambassador to the Secretary of State.	Dec. 10	Informs him that the Emperor has been pleased to recall Capts. Boy-Ed and von Papen and asks for safe conduct for their return to Germany.	364
	The Secretary of State to the German Ambassador.	Dec. 11	States that the United States Government has requested safe conducts for the return of Capts. Boy-Ed and von Papen to Germany.	365
	The Secretary of State to the German Ambassador.	Dec. 15	Advises him that the British and French Ambassadors have arranged for safe conducts to Capts. Boy-Ed and von Papen for their return to Germany.	365

Recall of Captains Von Papen and Boy-Ed—Continued.

No.	From and to whom.	Date.	Subject.	Page.
	Do	1915. Dec. 18	Transmits authenticated copies of notes from the British and French Ambassadors, which will be regarded as safe conducts. Passport for each of the gentlemen is also inclosed.	366

Part IX.

Status of Armed Merchant Vessels.

	Department memorandum.	1916. Mar. 25	Memorandum prepared by direction of the President in regard to the status of armed merchant vessels in neutral ports and on the high seas.	367

Part X.

Hovering of British Warships near the Territorial Waters of the United States.

	Collector of Customs, Norman R. Hamilton, to the Secretary of the Treasury.	1915. Nov. 20	Transmits affidavit of Charles Moller, Master of the Danish steamship *Vinland*, describing pursuit of that vessel by a British warship.	373
	The British Ambassador to the Acting Secretary of State.	Nov. 27	Acknowledges letter regarding the following of the Danish ship *Vinland* by a British warship within the three-mile limit.	375
	The British Ambassador to the Secretary of State.	Dec. 1	States that British ships of war employed in the Atlantic have strict orders against the violation of American territorial wa-	375

British Warships near Territorial Waters of United States—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1915.	ters, which orders he believes to have been carefully observed.	
429	The British Ambassador to the Secretary of State.	Dec. 11	Communicates information as to the steamship *Vinland*.....	376
1016	The Secretary of State to the British Ambassador.	Dec. 16	Reply concerning the steamship *Vinland*.....	376
	The British Ambassador to the Secretary of State.	Dec. 21	Acknowledges receipt of preceding note and states that it has been communicated to his Government.	378
1026	The Secretary of State to the British Ambassador.	Dec. 22	Refers to his note of December 16, 1915, in response to Embassy's note of the 11th instant, relative to the case of the steamship *Vinland*.	378
		1916.		
	The British Ambassador to the Secretary of State.	Mar. 20	Correspondence concerning the steamship *Vinland* case.....	379
1152	The Secretary of State to the British Ambassador.	Apr. 26	States the grounds upon which the objection to the continued presence of belligerent vessels of war in close proximity to American ports is based, and discusses the historical aspects of the American contention.	383

Part XI.

Case of the British Steamship "Appam," Captured by German Naval Forces and Brought by a Prize Crew into an American Port.

J. Nr. A785	German Ambassador to Secretary of State.	Feb. 2	Reports arrival at American port of British S. S. *Appam*, captured by German	387

Case of the British Steamship "Appam"—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1916.		
			naval forces. Requests internment of a military party of the enemy as well as the crew of the ship.	
	Secretary of State to British Ambassador.	Feb. 3	Inquires whether any of the gentlemen named on list of persons on board the *Appam* are members of His Majesty's armed forces.	388
	Memorandum from the British Embassy.	Feb. 4	Refers to Art. 21 and Art. 23 of the Hague Convention, No. XIII of 1907, and requests that principles be applied to the *Appam*. Requests that if ship is regarded as a prize she be restored to her original owners.	388
	Memorandum from the German Embassy.	Feb. 8	States that the *Appam* must be dealt with according to Art. 19 of Prusso-American Treaty of 1799.	390
	Memorandum from the British Embassy.	Feb. 12	Directs attention to the necessity that adequate precaution be taken to prevent increase in crew or armament, or change in personnel that would augment the force of the *Appam*.	390
	Memorandum from the British Embassy.	Feb. 15	The claims of the British Government are not to be prejudiced by any action by the ship's owners.	391
J. Nr. A1293	German Ambassador to Secretary of State.	Feb. 22	Reports the filing of a libel against the *Appam*, protests against the action of the U. S. court, and asks that the necessary steps be taken to secure prompt dismissal of the libel.	391

Case of the British Steamship "Appam"—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1916.		
	Secretary of State to German Ambassador.	Mar. 2	Discusses the status of the *Appam*, states that U. S. Government considers itself free from any obligation to accord *Appam* privileges stipulated under Art. 19 of the treaty of 1799, and adds that the Attorney General will present to the court a copy of the Ambassador's note.	392
J. Nr. A1829	German Ambassador to Secretary of State.	Mar. 14	States that at this time the proposed removal of vessel to wharf does not seem necessary.	395
J. Nr. A1727	German Ambassador to Secretary of State.	Mar. 16	Proposes that construction of the treaty of 1799 be referred to the Hague Court of Arbitration.	397
	British Ambassador to Secretary of State.	Mar. 31	States that detention of *Appam* under conditions is a violation of American neutrality.	399
	Secretary of State to British Ambassador.	Apr. 4	States that the presence of *Appam* under conditions in American waters is not a violation of the neutrality of the United States.	400
2217	Secretary of State to German Ambassador.	Apr. 7	Discusses application of Art. 19 of treaty of 1799 to case of *Appam;* can not accept proposal to refer construction of the treaty to the Hague Court of Arbitration.	401

Part XII

Interferences by Belligerents With Mails.

No.	From and to whom.	Date.	Subject.	Page.
		1916.		
	The Secretary of State to Ambassador W. H. Page (telegram).	Jan. 4	Instructs Mr. Page to protest to British Government against interferences with mails.	404
	The French Ambassador to the Secretary of State.	Apr. 3	Transmits memorandum from the French and English Governments replying to American protest against interference with mails.	405
85	The British Ambassador to the Secretary of State.	Apr. 3	Transmits memorandum identical with foregoing.	412
1186	The Secretary of State to the British Ambassador.	May 24	Acknowledges memorandum dated February 15, 1916, and says that only a radical change in the present policy restoring to the United States its full rights as a neutral power will satisfy the United States Government.	412
	The Secretary of State to the French Ambassador.	May 24	Same, mutatis mutandis, as above.	412
307	British Ambassador to the Secretary of State.	Oct. 12	Transmits joint memorandum of British and French Governments in reply to the American note of May 24, 1916, regarding the examination of the mails.	418

Part XIII.

Removal of Enemy Subjects from American Vessels.

	The Secretary of State to Ambassador W. H. Page (telegram).	Feb. 23	Instructs him to insist upon release of Germans, Austrians and Turks removed from American steamship *China* by British cruiser *Laurentic*.	427

Removal of Enemy Subjects from American Vessels—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1916.		
3259	Ambassador W. H. Page to the Secretary of State.	Mar. 17	Encloses note from the British Foreign Office in reply to the representations made in compliance with the Department's instructions of Feb. 23, 1916.	428

Part XIV.

Escape of Officers and Men from German Ships Interned in the United States.

		1915.		
1661	The Secretary of State to the German Ambassador.	Nov. 16	Calls attention to facts relating to the escape from time to time of certain paroled officers and men from the *Kronprinz Wilhelm* and the *Prinz Eitel Friedrich.*	433
	The Secretary of State to Ambassador Gerard (telegram).	Nov. 17	Informs him that the German Ambassador has been requested to bring to attention of his Government facts concerning escape of paroled German officers and men from ships interned in United States ports, and to ask for their immediate return to the United States for internment with their respective vessels.	435
J. Nr. A7545	The German Ambassador to the Secretary of State.	Nov. 22	Asks that order to photograph the officers and crews of the interned German cruisers be not enforced.	436
	The Secretary of State to the German Ambassador.	Nov. 23	Gives views of United States in regard to the photographing of the crews of the interned German cruisers.	436

Escape of Men from German Ships Interned in U. S.—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1915.		
J. Nr. A7586	The German Ambassador to the Secretary of State.	Nov. 24	Reports on the particulars in connection with the escape of certain officers and men interned on the *Kronprinz Wilhelm* and *Prinz Eitel Friedrich.*	437
2708	Ambassador W. H. Page to the Secretary of State.	Dec. 16	Transmits note from Foreign Office concerning the identity of Lieut. zur See Henry Koch, detained in Edinburgh, together with copy of Koch's letter and the Consul's letter of transmittal.	438
	The Secretary of State to the British Ambassador.	Dec. 22	Gives information concerning Lieut. zur See Henry Koch, detained as a prisoner of war in England who states he has escaped from internment at Norfolk.	440
	The Secretary of State to Ambassador Gerard (telegram).	Dec. 22	Directs him to urge that a prompt reply be made by German Government to the representations made to the German Ambassador, and to report by cable.	440
		1916.		
3046	The Secretary of State to Ambassador W. H. Page.	Jan. 7	Acknowledges receipt of dispatch dated Dec. 16, 1915, and informs him that in view of the breach of parole by Lieut. Koch no representations will be made to the British Government.	441
2496	Ambassador Gerard to the Secretary of State.	Feb. 21	Transmits copy of Foreign Office's Note, dated Feb. 16, 1916, regarding the escape of officers and men from the German auxiliary cruisers *Kronprinz Wilhelm* and *Prinz Eitel Friedrich.*	441

Escape of Men from German Ships Interned in U. S.—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1916.		
	The Secretary of State to Ambassador Gerard (telegram).	Mar. 9	Gives views of the United States Government in connection with escape of interned officers and men and urges immediate reply.	443

Part XV.

Status of American Consular Officers in Belligerent Territory Occupied by Enemy Troops.

		1914.		
308	Ambassador Gerard to the Secretary of State.	Dec. 4	Transmits copy of a note verbale from the German Foreign Office stating the position of the German Government concerning the recognition of consular officers in territory under occupation by the German Army.	445
	The Belgian Minister to the Secretary of State.	Dec. 28	Informs him that the Belgian Government has entered a protest at Berlin, under Article 42 of the 4th Convention of The Hague, concerning the right to cancel exequaturs.	446
		1915.		
425	Ambassador Gerard to the Secretary of State.	Jan. 11	Transmits copy of a note verbale from the German Foreign Office dated Jan. 3, 1915, and a note verbale addressed to the German Foreign Office by the Spanish Embassy at Berlin, relative to the protest of the Belgian Government concerning the recognition of consular officers in territory under occupation by the German Army.	447

American Consular Officers in Belligerent Territory—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1915.		
	The Secretary of State to Ambassador Gerard (telegram).	Jan. 21	Instructs him to present the accompanying note to the German Government concerning the recognition of consular officers in territory under occupation by the German Army.	448
	The Secretary of State to the Belgian Minister.	Jan. 25	Acknowledges receipt of note in connection with the intention of the German Government to cancel the exequaturs granted by the Belgian Government, etc.	450
898	The Belgian Minister to the Secretary of State.	Feb. 13	Transmits copy of the German Government's reply to the Belgian Government's protest concerning cancellation of exequaturs and also copy of another note from the Belgian Government delivered by the Spanish Embassy at Berlin.	450
664	Ambassador Gerard to the Secretary of State.	Mar. 12	Transmits copy of the reply of the German Foreign Office on the subject of the consular representation of the United States in Belgium.	452
	Ambassador Penfield to the Secretary of State (telegram).	Nov. 13	Reports that permission has been requested by Vice Consul Young to return to Belgrade and ask for ruling by the Department as to whether Vice Consul Young is subordinate to the Embassy at Vienna or the Legation at Bucharest.	453
	Ambassador Penfield to the Secretary of State (telegram).	Nov. 14	Quotes extract of telegram from Vice Consul Young asking for instruction as to whether he should join	453

American Consular Officers in Belligerent Territory—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1915.		
			Serbian Government via Italy or remain in Belgrade.	
	The Secretary of State to Ambassador Penfield (telegram).	Nov. 17	Informs him that under existing conditions Vice Consul Young should remain in Belgrade under his supervision.	454
	Ambassador Penfield to the Secretary of State (telegram).	Nov. 20	Reports informal discussion with members of Austro-Hungarian Ministry of Foreign Affairs concerning the status of Vice Consul Young at Belgrade.	454
	The Secretary of State to Ambassador Penfield (telegram).	Nov. 23	Informs him of Department's attitude concerning request made by Austria-Hungary for the withdrawal of the American consulate from Belgrade.	454
	Ambassador Penfield to the Secretary of State (telegram).	Nov. 23	Arrival of Vice Consul Young at Belgrade. Military authorities declare it impossible for him to remain.	455
	Ambassador Penfield to the Secretary of State (telegram).	Dec. 7	Reports the conditions under which the return of Vice Consul Young to Belgrade is consented to by the Austro-Hungarian Government.	456
	The Secretary of State to Ambassador Penfield (telegram).	Dec. 23	Instructs him that Vice Consul Young should make arrangements for the sealing of the archives and closing of consulate at Belgrade.	456
		1916.		
74	Vice Consul Young to the Secretary of State.	Jan. 17	Reports closing of consulate at Belgrade and his arrival in Vienna on Jan. 10, 1916.	457

American Consular Officers in Belligerent Territory—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1916.		
	Ambassador Gerard to the Secretary of State (telegram).	June 14	German Foreign Office inquires as to acceptability of proposed form of recognition of American consul at Warsaw.	458
	The Acting Secretary of State to Ambassador Gerard (telegram).	July 12	German proposal regarding form of recognition of American consul at Warsaw is acceptable to United States Government.	458

Part XVI.

Dual Nationality—Military Service Case of Frank Ghiloni.

		1915.		
	The Secretary of State to Ambassador T. N. Page (telegram).	Jan. 13	Instructs Mr. Page to ask for release of Mr. Ghiloni.	460
	The Secretary of State to Ambassador T. N. Page (telegram).	Jan. 21	Asks for report in the case of Frank L. Ghiloni.....	460
	Ambassador T. N. Page to the Secretary of State (telegram).	Jan. 22	States that he has received no reply to his note of the 14th regarding Ghiloni and adds that he is renewing request.	460
	The Secretary of State to Consul Grace (telegram).	Feb. 20	Instructs him to advise Frank Ghiloni that efforts are being made to obtain his release.	461
	The Secretary of State to Ambassador T. N. Page (telegram).	Mar. 25	Inquiries as to the status of the Ghiloni case.....	461
	Ambassador T. N. Page to the Secretary of State (telegram).	Mar. 26	Informs him that he has received no definite reply to his several requests for release of Ghiloni and that he is again urging action.	461
	The Secretary of State to Ambassador T. N. Page (telegram).	May 6	Asks for report as to status of Ghiloni case.....	461

Dual Nationality—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1915.		
	Ambassador T. N. Page to the Secretary of State (telegram).	May 7	States that Ghiloni case is still undecided.	462
	Ambassador T. N. Page to the Secretary of State (telegram).	May 18	Reports that Ministry of War have decided it is impossible to exempt Frank Ghiloni from liability to military service.	462
	The Secretary of State to Ambassador T. N. Page (telegram).	June 7	States facts concerning birth and residence of Frank L. Ghiloni and reasons for his visit to Italy, and instructs him to continue his efforts to secure release.	462
	Ambassador T. N. Page to the Secretary of State (telegram).	June 11	States that Ghiloni case has again been brought to attention of the Foreign Office with request for early reply, but that no reply has been received.	463
	The Secretary of State to Ambassador T. N. Page (telegram).	July 20	Instructs him to ask Italian Government to make a reasonable discrimination in the case of Frank Ghiloni because he was born a citizen of the United States, urging early decision.	463
	Ambassador T. N. Page to the Secretary of State (telegram).	Aug. 13	States that decision in Ghiloni case will soon be made.	464
	Ambassador T. N. Page to the Secretary of State (telegram).	Aug. 18	States the case of Frank Ghiloni is being carefully investigated.	464
362	Ambassador T. N. Page to the Secretary of State.	Aug. 27	States that Ghiloni is not exempted from military service under Art. 12 of the Italian Civil Code, and also transmits copy of notes verbale of May 16 and Aug. 27.	464

Dual Nationality—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1915.		
	The Secretary of State to Ambassador T. N. Page (telegram).	Sept. 4	Asks for further information concerning Ghiloni case.	463
367	Ambassador T. N. Page to the Secretary of State.	Sept. 4	Expresses hope that Italian Government will relieve Ghiloni from duty on ground of poor health and transmits copy of a note verbale to the foreign office asking for a medical examination of Ghiloni.	467
	Ambassador T. N. Page to the Secretary of State (telegram).	Sept. 5	States that Ghiloni's release has been refused by War Office on ground that he was born prior to his father's naturalization.	468
	The Secretary of State to Ambassador T. N. Page (telegram).	Oct. 23	Asks for report of status of Ghiloni case.	468
	Ambassador T. N. Page to the Secretary of State (telegram).	Oct. 25	States that Ghiloni's release has been definitely refused by military authorities, who state that if he is sick he will receive proper medical treatment from Army surgeons.	468
396	Ambassador T. N. Page to the Secretary of State.	Oct. 25	Transmits copy of a note verbale from the Italian Foreign Office, which note declines to exempt Frank Ghiloni from military service.	469
		1916.		
707	The Secretary of State to Ambassador Penfield.	Jan. 8	Instructs him to present the case of Frank L. Ghiloni to Austro-Hungarian Government and endeavor to secure his release because of his American citizenship.	469

Dual Nationality—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1916.		
	The Secretary of State to Ambassador Penfield (telegram).	Feb. 18	Instructs him to emphasize fact that Frank Ghiloni was born an American citizen and ask for his release and permission to return to this country.	470
	The Secretary of State to Ambassador T. N. Page (telegram—par.).	Feb. 18	Mr. Page is instructed to secure a definite reply in case of Frank Ghiloni and emphasize fact that he was born an American citizen.	471
	Ambassador Penfield to the Secretary of State (telegram).	Mar. 3	States that information has been received that Frank Ghiloni was wounded and taken prisoner in October last and that he is awaiting reply from competent authorities concerning his release.	471
461	Ambassador T. N. Page to the Secretary of State.	Mar. 4	Reports on status of Ghiloni case.	472
	Ambassador Penfield to the Secretary of State (telegram).	Mar. 14	States that ministry asks what guarantee can be given that Frank Ghiloni will not bear arms against monarch or allies during present war in case of his release.	472
1404	Ambassador Penfield to the Secretary of State.	Mar. 16	Transmits copy of a note verbale relative to the case of Frank Ghiloni, and also copy of embassy's note verbale in reply to this communication.	472
	The Acting Secretary of State to Ambassador Penfield (telegram).	Mar. 21	Instructs him to inquire of Foreign Office if Ghiloni's sworn statement that he would not bear arms against monarch or allies would be accepted and, if not, what guarantee would be required.	475

Dual Nationality—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1916.		
309	The Secretary of State to Ambassador T. N. Page.	Mar. 23	Instructs him to ask Italian Government whether Art. 7 of the Italian Law on Citizenship is applicable to persons born in this country of Italian parents, etc.	475
	Ambassador Penfield to the Secretary of State (telegram).	Mar. 27	States that Austro-Hungarian Government can not release Mr. Ghiloni unless Italian Government recognizes his American citizenship.	476
	The Secretary of State to Ambassador Penfield (telegram).	Mar. 31	Instructs him to ask release of Ghiloni upon his sworn statement that he would return immediately to the United States and not leave during continuance of war.	476
	The Secretary of State to Ambassador Penfield (telegram).	Apr. 25	Instructs him to inquire if Austro-Hungarian authorities will release Ghiloni upon his promise suggested and department's assurance that passport will not be issued to him to leave United States during continuation of war.	477
	Ambassador Penfield to the Secretary of State (telegram).	May 5	States that Austro-Hungarian Government agrees to release Ghiloni if he will make a sworn affidavit that he will not bear arms against central powers during the present war.	477
	The Secretary of State to Ambassador Penfield (telegram).	May 8	Department agrees to conditions for the release of Mr. Ghiloni, and says that Department does not believe he would be seized by the entente	478

Dual Nationality—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1916.	powers, and if so the United States would demand his immediate release.	
	Ambassador Penfield to the Secretary of State (telegram).	June 19	Reports the release and delivery to the Embassy of Frank Ghiloni.	478

OFFICIAL DOCUMENTS.

DIPLOMATIC CORRESPONDENCE BETWEEN THE UNITED STATES AND BELLIGERENT GOVERNMENTS RELATING TO NEUTRAL RIGHTS AND COMMERCE.

Part I.

DECLARATION OF LONDON.

(Continuation of correspondence printed in Special Supplement, July, 1915, pp. 1–8.)

Ambassador Sharp to the Secretary of State.

[Telegram.]

American Embassy,
Paris, October 26, 1915.

Following decree published in *Journal Officiel* to-day:

Article one. The provisions of Article 57, paragraph one, of the Declaration signed at London, February twenty-sixth, 1909, relating to naval warfare, shall be applied during the present war, with the following modification to it: whenever it is established that a ship flying an enemy flag belongs in fact to the nationals of a neutral or an allied country, or conversely that a ship flying a neutral or allied flag belongs in fact to nationals of an enemy country, or to parties residing in an enemy country, the ship shall accordingly be considered neutral, allied, or enemy.

Article two. The President of the Council, Minister for Foreign Affairs, and the Minister of Marine, each in his province, are charged with the execution of this decree.

Sharp.

Ambassador W. H. Page to the Secretary of State.

No. 2425.] American Embassy,
London, October 29, 1915.

Sir: Referring to my cablegram No. 3104 of October 28,[1] quoting the text of the Order in Council dated October 20, 1915, in which Article 57 of the Declaration of London is abrogated, I now have the honor to in-

[1] Not printed.

close herewith 7 copies of the Second Supplement to the London Gazette of Friday, the 22nd of October, 1915, for the information of the Department.

I have, etc.,

WALTER HINES PAGE.

[Inclosure.]

[Numb. 29338. 10491. Second Supplement to The London Gazette of Friday, the 22nd of October, 1915.]

ORDER IN COUNCIL.

At the Court at Buckingham Palace, the 20th day of October, 1915.

Present, the King's Most Excellent Majesty in Council.

Whereas by the Declaration of London Order in Council No. 2, 1914, His Majesty was pleased to declare that, during the present hostilities, the provisions of the said Declaration of London should, subject to certain exceptions and modifications therein specified, be adopted and put in force by His Majesty's Government; and

Whereas, by Article 57 of the said Declaration, it is provided that the neutral or enemy character of a vessel is determined by the flag which she is entitled to fly; and

Whereas it is no longer expedient to adopt the said Article:

Now, therefore, His Majesty, by and with the advice of His Privy Council, is pleased to order, and it is hereby ordered, that from and after this date Article 57 of the Declaration of London shall cease to be adopted and put in force.

In lieu of the said Article, British Prize Courts shall apply the rules and principles formerly observed in such Courts.

This Order may be cited as "The Declaration of London Order in Council, 1915."

And the Lords Commissioners of His Majesty's Treasury, the Lords Commissioners of the Admiralty, and each of His Majesty's Principal Secretaries of State, the President of the Probate, Divorce, and Admiralty Division of the High Court of Justice, all other Judges of His Majesty's Prize Courts, and all Governors, Officers, and Authorities whom it may concern, are to give the necessary directions herein as to them may respectively appertain.

J. C. LEDLIE.

Consul General Skinner to the Secretary of State.

AMERICAN CONSULATE GENERAL,
London, March 31, 1916.

Order in Council, March thirtieth, proclaims important modifications to declaration of London Order in Council Number Two, of October twenty-ninth, 1914, providing:

First. British possess right to capture goods as conditional contraband whether carriage to destination "be direct or entail transshipment or a subsequent transport by land."

Second. Presumption of enemy destination if goods are consigned to agent of enemy state, or to order, or if ship's papers do not show who is consignee applies to both absolute contraband and conditional contraband.

Third. Enemy destination presumed to exist if goods are consigned "To or from a person who during the present hostilities has forwarded imported contraband goods to territory belonging to or occupied by the enemy."

Fourth. In cases covered by Second and Third regulations it shall lie upon the owner of the goods to prove innocent destination.

Fifth. And from after March thirtieth Article Nineteen Declaration London ceases to be in force, neither vessel nor cargo shall be immune from capture for breach of blockade upon sole ground that she is destined to non-blockaded port.

SKINNER.

Consul General Skinner to the Secretary of State.

No. 1545.] AMERICAN CONSULATE GENERAL,
London, April 3, 1916.

SIR: Referring to my telegram of March 31, 1916, reporting briefly the provisions of an Order in Council modifying the Declaration of London Order in Council No. 2, 1914, I have the honor to enclose herewith the official text of the Order in question which appeared in a special number of the London Gazette of March 30, 1916.

I am, etc.,

ROBERT SKINNER.

[Inclosure.]

ORDER IN COUNCIL.

At the Court at Buckingham Palace, the 30th day of March, 1916. Present, the King's Most Excellent Majesty in Council.

Whereas by the Declaration of London Order in Council No. 2, 1914, His Majesty was pleased to direct that during the present hostilities the provisions of the convention known as the Declaration of London should, subject to certain omissions and modifications therein set out, be adopted and put in force by His Majesty's Government; and

Whereas doubts have arisen as to the effect of Article 1 (iii) of the said Order in Council on the right to effect the capture of conditional contraband on board a vessel bound for a neutral port; and

Whereas it is expedient to put an end to such doubts and otherwise to amend the said Order in Council in the manner hereinafter appearing; and

Whereas by Article 19 of the said Declaration it is provided that whatever may be the ulterior destination of a vessel or of her cargo she can not be captured for breach of blockade if at the moment she is on her way to a nonblockaded port; and

Whereas it is no longer expedient to adopt Article 19 of the said Declaration;

Now, therefore, His Majesty, by and with the advice of his Privy Council, is pleased to order, and it is hereby ordered as follows:

1. The provisions of the Declaration of London Order in Council No. 2, 1914, shall not be deemed to limit or to have limited in any way the right of His Majesty, in accordance with the law of nations, to capture goods upon the grounds that they were conditional contraband, nor to affect or to have affected the liability of conditional contraband to capture, whether the carriage of the goods to their destination be direct or entail transshipment or a subsequent transport by land.

2. The provisions of Article 1 (ii) and (iii) of the said Order in Council shall apply to absolute contraband as well as to conditional contraband.

3. The destinations referred to in Article 30 and in Article 33 of the said Declaration shall (in addition to any presumptions laid down in the said Order in Council) be presumed to exist, if the goods are consigned to or for a person who, during the present hostilities, has forwarded imported contraband goods to territory belonging to or occupied by the enemy.

4. In the cases covered by Articles 2 and 3 of this Order, it shall lie upon the owner of the goods to prove that their destination was innocent.

5. From and after the date of this Order, Article 19 of the Declaration of London shall cease to be adopted and put in force. Neither a vessel nor her cargo shall be immune from capture for breach of blockade upon the sole grounds that she is at the moment on her way to a nonblockaded port.

6. This order may be cited as "The Declaration of London Order in Council, 1916."

And the Lords Commissioners of His Majesty's Treasury, the Lords Commissioners of the Admiralty, and each of His Majesty's Principal Secretaries of State, the President of the Probate, Divorce, and Admiralty Division of the High Court of Justice, all other Judges of His Majesty's Prize Courts, and all Governors, Officers, and Authorities whom it may concern, are to give the necessary directions herein as to them may respectively appertain. ALMERIC FITZROY.

Ambassador W. H. Page to the Secretary of State.

No. 4181.] AMERICAN EMBASSY,
London, July 10, 1916.

SIR: I have the honor to inclose herewith, for the information of the Department, a copy, in duplicate, of the text of an Order in Council dated the 7th instant, which has been received from the Foreign Office, called "The Maritime Rights Order in Council, 1916," which effects a change in the rules hitherto adopted by the British Government to govern their conduct of warfare at sea during the present hostilities.

There is also transmitted herewith a copy, in duplicate, of a memorandum which has been drawn up by the British and French Governments explaining the grounds for the issue of the aforementioned Order in Council.

I have, etc., WALTER HINES PAGE.

[Inclosure 1.]

ORDER IN COUNCIL.

At the Court at Buckingham Palace, the 7th day of July, 1916. Present, the King's Most Excellent Majesty in Council.

Whereas by an Order in Council, dated the 20th day of August, 1914,

His Majesty was pleased to declare that during the present hostilities the provisions of the Declaration of London should, subject to certain additions and modifications therein specified, be adopted and put in force by His Majesty's Government:

And whereas the said Declaration was adopted as aforementioned in common with His Majesty's allies:

And whereas it has been necessary for His Majesty and for his allies from time to time to issue further enactments modifying the application of the articles of the said declaration:

And whereas Orders in Council for this purpose have been issued by His Majesty on the 29th day of October, 1914, the 20th day of October, 1915, and the 30th day of March, 1916:

And whereas the issue of these successive Orders in Council may have given rise to some doubt as to the intention of His Majesty, as also as to that of his allies, to act in strict accordance with the law of nations, and it is therefore expedient to withdraw the said orders so far as they are now in force:

Now, therefore, His Majesty, by and with the advice of His Privy Council, is pleased to order, and it is hereby ordered, that the Declaration of London Order in Council No. 2, 1914, and all orders subsequent thereto amending the said order are hereby withdrawn;

And His Majesty is pleased further to declare, by and with the advice of His Privy Council, and it is hereby declared, that it is and always has been his intention, as it is and has been that of his allies, to exercise their belligerent rights at sea in strict accordance with the law of nations;

And whereas on account of the changed conditions of commerce and the diversity of practice doubts might arise in certain matters as to the rules which His Majesty and his allies regard as being in conformity with the law of nations, and it is expedient to deal with such matters specifically;

It is hereby ordered that the following provisions shall be observed:

(*a*) The hostile destination required for the condemnation of contraband articles shall be presumed to exist, until the contrary is shown, if the goods are consigned to or for an enemy authority, or an agent of the enemy State, or to or for a person in territory belonging to or occupied by the enemy, or to or for a person who, during the present hostilities, has forwarded contraband goods to an enemy authority, or an agent of the enemy State, or to or for a person in territory belonging to or occupied by the enemy, or if the goods are consigned "to order," or if the ship's papers do not show who is the real consignee of the goods.

(*b*) The principle of continuous voyage or ultimate destination shall be applicable both in cases of contraband and of blockade.

(*c*) A neutral vessel carrying contraband with papers indicating a neutral destination, which, notwithstanding the destination shown on the papers, proceeds to an enemy port, shall be liable to capture and condemnation if she is encountered before the end of her next voyage.

(*d*) A vessel carrying contraband shall be liable to capture and condemnation if the contraband, reckoned either by value, weight, volume, or freight, forms more than half the cargo.

And it is hereby further ordered as follows:

(i) Nothing herein shall be deemed to affect the Order in Council of the 11th March, 1915, for restricting further the commerce of the enemy or any of His Majesty's Proclamations declaring articles to be contraband of war during the present hostilities.

(ii) Nothing herein shall affect the validity of anything done under the Orders in Council hereby withdrawn.

(iii) Any cause or proceeding commenced in any prize court before the making of this order may, if the court thinks just, be heard and decided under the provisions of the orders hereby withdrawn so far as they were in force at the date when such cause or proceeding was commenced, or would have been applicable in such cause or proceeding if this order had not been made.

This order may be cited as "The Maritime Rights Order in Council, 1916."

And the Lords Commissioners of His Majesty's Treasury, the Lords Commissioners of the Admiralty, and each of His Majesty's Principal Secretaries of State, the President of the Probate, Divorce, and Admiralty Division of the High Court of Justice, all other judges of His Majesty's prize courts, and all governors, officers, and authorities whom it may concern, are to give the necessary directions herein as to them may respectively appertain.

ALMERIC FITZROY.

[Inclosure 2.]

MEMORANDUM.

At the beginning of the present war the allied Governments, in their anxiety to regulate their conduct by the principles of the law of nations, believed that in the Declaration of London they would find a suitable

digest of principles and compendium of working rules. They accordingly decided to adopt the provisions of the declaration, not as in itself possessing for them the force of law, but because it seemed to present in its main lines a statement of the rights and the duties of belligerents based on the experience of previous naval wars. As the present struggle developed, acquiring a range and character beyond all previous conceptions, it became clear that the attempt made at London in time of peace to determine not only the principles of law, but even the forms under which they were to be applied, had not produced a wholly satisfactory result. As a matter of fact these rules, while not in all respects improving the safeguards afforded to neutrals, do not provide belligerents with the most effective means of exercising their admitted rights.

As events progressed, the Germanic Powers put forth all their ingenuity to relax the pressure tightening about them and to reopen a channel for supplies; their devices compromised innocent neutral commerce and involved it in suspicions of enemy agency. Moreover, the manifold developments of naval and military science, the invention of new engines of war, the concentration by the Germanic Powers of the whole body of their resources on military ends, produced conditions altogether different from those prevailing in previous naval wars.

The rules laid down in the Declaration of London could not stand the strain imposed by the test of rapidly changing conditions and tendencies which could not have been foreseen.

The allied Governments were forced to recognize the situation thus created, and to adapt the rules of the declaration from time to time to meet these changing conditions.

These successive modifications may perhaps have exposed the purpose of the allies to misconstruction; they have therefore come to the conclusion that they must confine themselves simply to applying the historic and admitted rules of the law of nations.

The allies solemnly and unreservedly declare that the action of their warships, no less than the judgments of their prize courts, will continue to conform to these principles; that they will faithfully fulfil their engagements, and in particular will observe the terms of all international conventions regarding the laws of war; that mindful of the dictates of humanity, they repudiate utterly all thought of threatening the lives of non-combatants; that they will not without cause interfere with neutral property; and that if they should, by the action of their fleets, cause damage to the interests of any merchant acting in good faith, they will

always be ready to consider his claims and to grant him such redress as may be due.

FOREIGN OFFICE,
July 7, 1916.

Ambassador Sharp to the Secretary of State.

No. 3392.] AMERICAN EMBASSY,
Paris, July 11, 1916.

SIR: In confirmation of my telegrams Nos. 1479, 1480, of July 8, 1916,[1] relating to a memorandum and decree published in the Journal Officiel of July 8, 1916, stating that the French and British Governments would no longer be governed by the rules of the Declaration of London in maritime warfare, I have the honor to inclose herewith, in copy and translation, the complete text of the memorandum and decree as it appeared in the Journal Officiel. The memorandum merely gives the reasons of the allies for abandoning the Declaration of London, while the decree specifies the conditions under which ships carrying merchandise of a contraband nature will henceforth be liable to capture.

I may add that the memorandum was sent to me by the minister for foreign affairs, with the request that it be transmitted to the Government of the United States.

I have, etc.,

For the Ambassador:

ROBERT WOODS BLISS.

[Inclosure—Translation.]

REPORT TO THE PRESIDENT OF THE FRENCH REPUBLIC.

MR. PRESIDENT: By decree of August 25, 1914, later superseded by the decree of November 6, of the same year, the Government of the Republic, in agreement with its allies, made the rules of international maritime law, formulated by the declaration signed in London on February 26, 1909, and which remained without ratification, applicable.

Experience having, little by little, led to the conclusion that these

[1] Not printed.

rules were not susceptible of assuring for the belligerents the exercise of the rights accruing to them from the general principles of the law of nations, several modifications were successively made. Certain doubts and certain obscurity were the result of this. It seems opportune to eliminate them by suppressing entirely the application of the rules formulated at London and for us to observe the principles of international law such as they have been for a long time consecrated by French legislation as well as by the treaties in force and whose application is assured by naval instructions concerning international law in time of war, published in the Official Bulletin of Marine of January 30, 1916.

The same point of view has been adopted by our allies and appropriate measures have been taken by them to maintain in this, as well as in other matters, unity of action and uniformity of practice in the conduct of hostilities.

It is under these conditions and with this spirit that the memorandum hereto annexed, addressed by the allied Governments to the neutral Governments, is conceived.

According to our regulation (rule of July 26, 1778, Art. I), ships carrying contraband are not susceptible of confiscation unless the merchandise forms more than three-fourths of the value of the entire cargo; but this restriction is subordinated to an identical practice on the part of the enemy. The Governments of Germany and Austria-Hungary prescribe confiscation when contraband merchandise forms, either by its value, or by its weight, or by its bulk, or by its burden, more than one-half the cargo. There is, therefore, reason to follow an analogous rule, which our allies propose to observe likewise.

On the other hand, our regulation above mentioned (Art. I), clearly states the principle according to which contraband merchandise may be seized when it is intended for the enemy and, in this respect, this text makes no restriction or limitation and no distinction between cases where the hostile destination of the merchandise is direct or indirect, manifest or dissimulated.

The adoption of the rules of the Declaration of London had to be accompanied in the decrees of application by certain dispositions intended to exclude restrictions or to complete the stipulations which the Declaration of London had consecrated as a conventional transaction between contracting powers. Although liability to seizure of contraband merchandise, in case of hostile destination indirect and dissimulated had been elucidated by jurisprudence (prize courts, May 26, 1855, the case of

the *Vrow-Houwina*) the fear was expressed that the abrogation of these decrees might give rise to doubts and it has seemed necessary to recall certain circumstances from which, if they are established, one is entitled to deduct, in default of proof to the contrary, the hostile destination of a contraband cargo.

If these different considerations seem to you justified, we beg of you to sign the project of the following decree.

With the assurance, etc.,

The President of the Council,
Minister for Foreign Affairs:
ARISTIDE BRIAND.

Minister of War:
ROQUES.
Minister of Marine:
LACAZE.
Minister of Colonies:
GASTON DOUMERGUE.

DECREE.

The President of the French Republic, on the report of the President of the Council, Minister for Foreign Affairs, of the Ministers of War, Marine, and Colonies,

In view of the decrees of November 6, 1914, of October 23, 1915, and of April 12, 1916;

In view of the maritime decree of August, 1681, Book III, title 9, the regulation of July 26, 1778, the decree of the consuls of 29 Frimaire, An VIII;

In view of the Declaration of Paris of April 16, 1856, and the Conventions signed at The Hague on October 18, 1907;

Decrees:

ARTICLE 1. The decree of November 6, 1914, making applicable with certain modifications and additions the rules formulated by the Declaration of London of February 26, 1909, concerning the law of maritime warfare, as well as the decrees of October 23, 1915, and of April 12, 1916, adding new modifications to the said rules, are hereby repealed.

ART. 2. Whenever contraband merchandise seized on a ship forms by its value, its weight, its volume, or its burden more than one-half of the cargo, the ship and its entire cargo are subject to confiscation.

ART. 3. If the documents accompanying a cargo constituting by its nature contraband of war and found on board a ship bound for a country bordering the enemy countries or a country occupied by the enemy do not specify the final and definitive destination of the said cargo in a neutral country, or if the importation into the said neutral country of the articles composing the cargo is out of proportion to normal importation, implying an ulterior hostile destination, the said cargo shall be subject to capture unless the interested parties can prove that the destination was really innocent.

ART. 4. The President of the Council, Minister for Foreign Affairs, the Ministers of War, Marine, and Colonies, are charged, each within his own province, with the execution of the present decree.

Done in Paris on July 7, 1916.

R. POINCARÉ.

By the President of the Republic:
The President of the Council:
Minister for Foreign Affairs:

A. BRIAND.

The Minister of War:
ROQUES.
The Minister of Marine:
LACAZE.
The Minister of Colonies:
GASTON DOUMERGUE.

MEMORANDUM.

Our allied Governments, striving to conform their conduct to the principles of international law, thought, at the beginning of the present war, that they would find in the Declaration of London a doctrine and a collection of practical rules. They consequently decided to adopt its stipulations, not because it had in itself the force of law with regard to them, but because it seemed to present, in its general scope, an exposition of the rights and duties of belligerents reposing upon the experience of maritime wars of the past. The development of the present struggle of an unsuspected magnitude and character has demonstrated that the efforts made in London to determine, in time of peace, not only the principles of right, but also the methods of their application, had not led to an entirely satisfactory result. These rules, in fact, without always

conferring upon neutrals broader guaranties, do not give to the belligerents the most efficacious means for exercising the rights which are recognized to be theirs.

Keeping pace with the march of events, the belligerents of the Germanic group have redoubled their efforts to ease the pressure which encircles them and to open the channel of reprovisioning; their subterfuges compromised the inoffensive trade of neutrals and laid it open to the suspicion of hostile intention. On the other hand, the progress of all kinds accomplished in the military and naval art, the creation of new weapons, the centralization by the Germanic belligerents of their entire resources for military purposes, created conditions very different from those of the naval wars of the past.

The application of the rules of the Declaration of London could not stand the test of the ceaseless and unforeseen evolution of events.

The allied Governments were forced to recognize this situation and to add, from time to time, to the rules of the Declaration compromises to keep pace with this evolution.

These successive changes may have rendered the intentions of the allies liable to false intrepretation; therefore it seemed necessary for them to restrict themselves solely to the application of the rules of international law as formerly recognized.

The allies solemnly and unreservedly declare that they will continue to observe these principles as well in the action of their cruisers as in the judgments of their prize courts; that true to their pledge they will conform themselves notably to the dispositions of international conventions regarding the laws of war; that respectful of law and of humanity they reject the idea of menacing the existence of noncombatants; that they will not make any unjustified assault upon the property of neutrals, and that in case damages be caused by their naval action to bona fide merchants, they will always be prepared to investigate the claims and to make due reparation.

PARIS, *July 7, 1916.*

Part II.

CONTRABAND OF WAR.

(Continuation of correspondence printed in Special Supplement, July, 1915, pp. 9–54.)

Ambassador W. H. Page to the Secretary of State.

No. 1512.] American Embassy,
London, May 29, 1915.

Sir: Referring to my cablegram No. 2188 of to-day's date,[1] I have the honor to inclose herewith to the Department copies, in duplicate, of the Proclamation of May 27th, 1915, giving additions and amendments to the List of Articles to be treated as Contraband of War.

I have, etc.,

Walter Hines Page.

[Inclosure.]

PROCLAMATION MAKING CERTAIN FURTHER ADDITIONS TO AND AMENDMENTS IN THE LIST OF ARTICLES TO BE TREATED AS CONTRABAND OF WAR.

George R. I.

Whereas on the twenty-third day of December, 1914, We did issue Our Royal Proclamation specifying the articles which it was Our intention to treat as contraband during the continuance of hostilities or until We did give further public notice; and

Whereas on the eleventh day of March, 1915, We did, by Our Royal Proclamation of that date, make certain additions to the list of articles to be treated as contraband of war; and

Whereas it is expedient to make certain further additions to and amendments in the said list:

Now, therefore, We do hereby declare, by and with the advice of Our Privy Council, that during the continuance of the war, or until We do give further public notice, the following articles will be treated as

[1] Not printed.

absolute contraband in addition to those set out in Our Royal Proclamations aforementioned:

Toluol, and mixtures of toluol, whether derived from coal tar, petroleum, or any other source.

Lathes and other machines or machine tools capable of being employed in the manufacture of munitions of war.

Maps and plans of any place within the territory of any belligerent, or within the area of military operations, on a scale of four miles to one inch, or on any larger scale, and reproductions on any scale by photography or otherwise of such maps or plans.

And We do hereby further declare that item 4 of Schedule I of Our Royal Proclamation of the twenty-third day of December aforementioned shall be amended as from this date by the omission of the words "and all other metallic acetates" after the words "calcium acetate."

And We do hereby further declare that in Our Royal Proclamation of the eleventh day of March aforementioned the words "other than linseed oil" shall be deleted and that the following article will as from this date be treated as conditional contraband:

Linseed oil.

Given at Our Court at Buckingham Palace this Twenty-seventh day of May, in the year of our Lord one thousand nine hundred and fifteen, and in the Sixth year of Our Reign.

Ambassador W. H. Page to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
London, August 24, 1915.

Following is text of royal proclamation placing cotton and cotton products in list of absolute contraband which has been received this morning, enclosed in a communication from Foreign Office, dated August twenty-third:

Whereas on the twenty-third day of December, 1914, we did issue our royal proclamation specifying the articles which it was our intention to treat as contraband during the continuance of hostilities or until we did give further notice;

Whereas on the eleventh day of March and on the twenty-seventh day of May, 1915, we did, by our royal proclamations of those dates, make certain additions to the list of articles to be treated as contraband of war;

Whereas it is expedient to make certain further additions to the said lists;

Now, therefore, we do hereby declare, by and with the advice of our privy council, that during the continuance of the war, or until we do give further public notice, the following articles will be treated as absolute contraband in addition to those set out in our royal proclamation aforementioned:

Raw cotton, cotton linters, cotton waste, and cotton yarns. And we do hereby further declare that this our royal proclamation shall take effect from the date of its publication in the London Gazette. Given at our court at the royal pavilion, Aldershot Camp, this twentieth day of August, in the year of our Lord one thousand nine hundred and fifteen, and in the sixth year of our reign.

PAGE.

Ambassador W. H. Page to the Secretary of State.

No. 2365.] AMERICAN EMBASSY,
London, October 18, 1915.

SIR: Adverting to my cablegram No. 3015 of October 15,[1] giving the text of a Proclamation dated October 14, revising the List of Articles to be treated as Contraband of War, I now have the honor to enclose herewith to the Department 7 copies of the above-mentioned Proclamation.

I have, etc., WALTER HINES PAGE.

[Inclosure.]

PROCLAMATION REVISING THE LIST OF ARTICLES TO BE TREATED AS CONTRABAND OF WAR.

GEORGE R. I.

Whereas on the 23d day of December, 1914, we did issue Our Royal Proclamation specifying the articles which it was our intention to treat

[1] Not printed.

as contraband during the continuance of hostilities or until we did give further public notice; and

Whereas on the 11th day of March, and on the 27th day of May, and on the 20th day of August, 1915, we did, by Our Royal Proclamations of those dates, make certain additions to the lists of articles to be treated as contraband of war; and

Whereas it is expedient to make certain further additions to and amendments in the said lists:

Now, therefore, we do hereby declare, by and with the advice of our Privy Council, that the lists of contraband contained in the schedules to Our Royal Proclamation of the 23d day of December, as subsequently amended by our Proclamations of the 11th day of March, and of the 27th day of May, and of the 20th day of August aforementioned, are hereby withdrawn, and that in lieu thereof, during the continuance of the war or until we do give further public notice, the articles enumerated in Schedule I hereto will be treated as absolute contraband, and the articles enumerated in Schedule II hereto will be treated as conditional contraband.

Schedule I.

1. Arms of all kinds, including arms for sporting purposes, and their component parts.

2. Implements and apparatus designed exclusively for the manufacture of munitions of war, or for the manufacture or repair of arms or of war material for use on land or sea.

3. Lathes and other machines or machine tools capable of being employed in the manufacture of munitions of war.

4. Emery, corundum, natural and artificial (alundum), and carborundum, in all forms.

5. Projectiles, charges, and cartridges of all kinds, and their component parts.

6. Paraffin wax.

7. Powder and explosives specially prepared for use in war.

8. Materials used in the manufacture of explosives, including: Nitric acid and nitrates of all kinds; sulphuric acid; fuming sulphuric acid (oleum); acetic acid and acetates; barium chlorate and perchlorate; calcium acetate, nitrate and carbide; potassium salts and caustic potash; ammonium salts and ammonia liquor; caustic soda, sodium chlorate and perchlorate; mercury; benzol, toluol, xylol, solvent naphtha, phenol

(carbolic acid), cresol, naphthalene, and their mixtures and derivatives; aniline and its derivatives; glycerine; acetone; acetic ether; ethyl alcohol; methyl alcohol; ether; sulphur; urea; cyanamide; celluloid.

9. Manganese dioxide, hydrochloric acid, bromine, phosphorus, carbon disulphide, arsenic and its compounds, chlorine, phosgene (carbonyl chloride), sulphur dioxide, prussiate of soda, sodium cyanide, iodine and its compounds.

10. Capsicum and peppers.

11. Gun mountings, limber boxes, limbers, military wagons, field forges and their component parts, articles of camp equipment and their component parts.

12. Barbed wire and the implements for fixing and cutting the same.

13. Range finders and their component parts, search-lights and their component parts.

14. Clothing and equipment of a distinctively military character.

15. Saddle, draught, and pack animals suitable or which may become suitable for use in war.

16. All kinds of harness of a distinctively military character.

17. Hides of cattle, buffaloes, and horses; skins of calves, pigs, sheep, goats, and deer; and leather, undressed or dressed, suitable for saddlery, harness, military boots or military clothing; leather belting, hydraulic leather, and pump leather.

18. Tanning substances of all kinds, including quebracho wood and extracts for use in tanning.

19. Wool, raw, combed, or carded; wool waste; wool tops and noils; woolen and worsted yarns; animal hair of all kinds, and tops, noils, and yarns of animal hair.

20. Raw cotton, linters, cotton waste, cotton yarns, cotton piece goods, and other cotton products capable of being used in the manufacture of explosives.

21. Flax, hemp, ramie, kapok.

22. Warships, including boats and their component parts of such a nature that they can only be used on a vessel of war.

23. Submarine sound-signaling apparatus.

24. Armor plates.

25. Aircraft of all kinds, including aeroplanes, airships, balloons, and their component parts, together with accessories and articles suitable for use in connection with aircraft.

26. Motor vehicles of all kinds and their component parts.

27. Tires for motor vehicles and for cycles, together with articles or materials especially adapted for use in the manufacture or repair of tires.

28. Mineral oils, including benzine and motor spirit.

29. Resinous products, camphor, and turpentine (oil and spirit); wood tar and wood-tar oil.

30. Rubber (including raw, waste, and reclaimed rubber, solutions and jellies containing rubber, or any other preparations containing rubber, balata, and guttapercha and the following varieties of rubber, viz.: Borneo, Guayule, Jelutong, Palembang, Pontianac, and all other substances containing caoutchouc), and goods made wholly or partly of rubber.

31. Rattans.

32. Lubricants.

33. The following metals: Tungsten, molybdenum, vanadium, sodium, nickel, selenium, cobalt, hæmatite pig iron, manganese, electrolytic iron, and steel containing tungsten or molybdenum.

34. Asbestos.

35. Aluminium, alumina, and salts of aluminium.

36. Antimony, together with the sulphides and oxides of antimony.

37. Copper, unwrought and part wrought; copper wire; alloys and compounds of copper.

38. Lead, pig, sheet, or pipe.

39. Tin, chloride of tin, and tin ore.

40. Ferro alloys, including ferrotungsten, ferromolybdenum, ferromanganese, ferrovanadium, and ferrochrome.

41. The following ores: Wolframite, scheelite, molybdenite, manganese ore, nickel ore, chrome ore, hæmatite iron ore, iron pyrites, copper pyrites and other copper ores, zinc ore, lead ore, arsenical ore, and bauxite.

42. Maps and plans of any place within the territory of any belligerent, or within the area of military operations, on a scale of 4 miles to 1 inch or any larger scale, and reproductions on any scale, by photography or otherwise, of such maps or plans.

Schedule II.

1. Foodstuffs.

2. Forage and feeding stuffs for animals.

3. Oleaginous seeds, nuts, and kernels.

4. Animals, fish, and vegetable oils and fats, other than those capable of use as lubricants, and not including essential oils.

5. Fuel, other than mineral oils.
6. Powder and explosives not specially prepared for use in war.
7. Horseshoes and shoeing materials.
8. Harness and saddlery.
9. The following articles, if suitable for use in war: Clothing, fabrics for clothing, skins and furs utilizable for clothing, boots and shoes.
10. Vehicles of all kinds, other than motor vehicles, available for use in war, and their component parts.
11. Railway materials, both fixed and rolling stock, and materials for telegraphs, wireless telegraphs, and telephones.
12. Vessels, craft, and boats of all kinds; floating docks and their component parts; parts of docks.
13. Field glasses, telescopes, chronometers, and all kinds of nautical instruments.
14. Gold and silver in coin or bullion, paper money.

Given at Our Court at Buckingham Palace, this fourteenth day of October, in the year of our Lord one thousand nine hundred and fifteen, and in the sixth year of Our Reign.

Ambassador W. H. Page to the Secretary of State.

No. 2604.] AMERICAN EMBASSY,
London, Nov. 30, 1915.

SIR: I have the honor to transmit herewith, for the information of the Department, six (6) copies of a List of Contraband, revised and brought up to November 5th, 1915, showing the date when each article was declared absolute or conditional contraband, and which has just been published.

I have, etc., WALTER HINES PAGE.

[Inclosure.]

LIST OF CONTRABAND (SECOND EDITION), REVISED AND BROUGHT UP TO NOVEMBER 5, 1915, SHOWING THE DATE WHEN EACH ARTICLE WAS DECLARED ABSOLUTE OR CONDITIONAL CONTRABAND.

PREFACE.

This list of Contraband is an alphabetical index of all the articles specified in the various Proclamations to be treated as Contraband

of War. Absolute and Conditional Contraband are indexed separately.

The date when each article was first declared contraband is given in Column D; the date when any article has been varied in description, withdrawn, or changed from Conditional to Absolute Contraband is shown in Column C, and the date of the Proclamation under which any article is now contraband is shown in Column F.

Every article is fully indexed in Column B; many therefore appear in more than one place, e. g., "Hæmatite iron ore" is indexed under "H," "I," and "O." The name of an article in Column B is printed in italics if it has been withdrawn, or if it is not specifically mentioned in a later Proclamation, but is included under some general heading, e. g., "Castor oil" under "Lubricants," or if its description has been varied.

In the Proclamations of August 4, October 29, December 23, 1914, and October 14, 1915, Absolute Contraband and Conditional Contraband are shown in separate schedules numbered I and II, which are divided into paragraphs. The number of the paragraph of these schedules in which an article was first included and the number of the paragraph in which it is now included are given in Columns E and G, respectively.

A summary of the Proclamations is given below.

Proclamations.

	Date.	Official number.[1]		Date when Published in London Gazette.
	1914.			1914.
I	Aug. 4	1914, No. 1250 [2]	Proclamation specifying articles to be treated as Absolute or Conditional Contraband of War.	Aug. 5 (1st supplement to Gazette of Aug. 4).
II	Aug. 20	1914, No. 1260 [3]	*The "Declaration of London Order in Council, 1914,"* adopting the provisions of the said Declaration with additions and modifications and substituting the lists of Absolute and Conditional Contraband in (I) for the	Aug. 22 (1st supplement to Gazette of Aug. 21).

[1] A Statutory Rule or Order may be cited by the Number (e. g., 1914, No. 1250) which follows such Statutory Rule or Order.

[2] Printed in Special Supplement, July, 1915, p. 9.

[3] *Ibid.*, p. 4.

Proclamations—Continued.

Date.	Official number.		Date when Published in London Gazette.
		lists in articles 22 and 24 of the said Declaration.	
III Sept. 21	1914, No. 1410 [4]	Proclamation adding to Conditional Contraband in (I).	Sept. 21 (2nd supplement to Gazette of Sept. 18).
IV Oct. 29	1914, No. 1613 [5]	Proclamation substituting new lists for those in (I) and (III), which are consolidated, with the following alterations: (*a*) Amending certain articles of Conditional Contraband; (*b*) altering certain articles from Conditional to Absolute Contraband; and (*c*) adding to Absolute and Conditional Contraband.	Oct. 29 (2nd supplement to Gazette of Oct. 27).
V Dec. 23	1914, No. 1775 [6]	Proclamation substituting new lists for those in (IV), which are incorporated, with the following alterations: (*a*) Amending certain articles of Absolute Contraband; (*b*) altering certain articles from Conditional to Absolute Contraband; and (*c*) adding to Absolute Contraband.	Dec. 23 (1st supplement to Gazette of Dec. 22).
1915.			1915.
IV Mar. 11	1915, No. 205 [7]	Proclamation adding to Absolute and Conditional Contraband in (V).	Mar. 12 (3rd supplement to Gazette of Mar. 9).
VII May 27	1915, No. 507 [8]	Proclamation adding to, and amending certain items of, Absolute and Conditional Contraband in (V) and (VI).	May 27 (2nd supplement to Gazette of May 25).
VIII Aug. 20	1915, No. 801 [9]	Proclamation adding certain forms of Cotton to Absolute Contraband in (V), (VI), and (VII).	Aug. 21 (2nd supplement to Gazette of Aug. 20).

[4] Printed in Special Supplement, July, 1915, p. 11.
[5] *Ibid.*, p. 12.
[6] *Ibid.*, p. 16.
[7] *Ibid.*, p. 20.
[8] Printed *supra*, p. 14.
[9] Printed *supra*, p. 15.

Proclamations—Continued.

	Date.	Official number.		Date when Published in London Gazette.
IX	Oct. 14	1915, No. 994 [10]	Proclamation substituting new lists for those in (V), (VI), (VII), and (VIII), which are consolidated, with the following alterations: (*a*) Amending certain articles of Absolute and Conditional Contraband; (*b*) altering certain articles from Conditional to Absolute Contraband, and (*c*) adding to Absolute and Conditional Contraband.	Oct. 14 (4th supplement to Gazette of Oct. 12).

Absolute Contraband.

[List compiled to Nov. 5, 1915.]

NOTE.—Articles printed in *italics* have been varied or withdrawn by later Proclamations.

A. Number of Article in this List.	B. Article.	C. References and Notes.	D. Date of the Proclamation first declaring Article Absolute Contraband.	E. Number of paragraph of Schedule I in Proclamation in Column D.	F. Date of Proclamation under which Article is now Absolute Contraband.	G. Number of paragraph of Schedule I in Proclamation in Column F.
1	Acetate, calcium, *and all other metallic acetates.*	*Words in italics omitted May 27 1915. See also No. 2.*	Dec. 23, 1914	4	Oct. 14, 1915	8
2	Acetates	.....	Oct. 14, 1915	8	.....do.....	8
3	Acetic acid	.....	Oct. 14, 1915	8	.....do.....	8
4	Acetic ether	.....	Oct. 14, 1915	8	.....do.....	8
5	Acetone	.....	Dec. 23, 1914	4	.....do.....	8
6	Acids:					
7	Acetic	.....	Oct. 14, 1915	8	.....do.....	8
8	Carbolic (phenol) and its mixtures and derivatives.	See No. 65	Oct. 14, 1915	8	.....do.....	8
9	Fuming sulphuric (oleum)	.....	Oct. 14, 1915	8	.....do.....	8
10	Hydrochloric ..	.....	Oct. 14, 1915	9	.....do.....	9
11	Nitric	.....	Dec. 23, 1914	4	.....do.....	8

[10] Printed *supra*, p. 16.

Absolute Contraband—Continued.

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12	Sulphuric	.....	Oct. 29, 1914	4	.....do.....	8
13	Aeroplanes and their component parts, etc.	See No. 15	Aug. 4, 1914	11	.....do.....	25
14	*Aircraft of all kinds and their component parts, together with accessories and articles recognizable as intended for use in connection with balloons and aircraft.*	*See No. 15 ....*	*Aug. 4, 1914*	*11*	Oct. 14, 1915	25
15	Aircraft of all kinds, including aeroplanes, airships, balloons and their component parts, together with accessories and articles suitable for use in connection with aircraft.	See No. 14	Oct. 14, 1915	25	.....do.....	25
16	Airships and their component parts, etc.	See No. 15.....	Aug. 4, 1914	11	.....do.....	25
17	Alcohol, ethyl....	.....	Oct. 14, 1915	8	.....do.....	8
18	Alcohol, methyl..	.....	Oct. 14, 1915	8	.....do.....	8
19	Alumina.....	.....	Dec. 23, 1914	16	.....do.....	35
20	Aluminium.....	.....	Oct. 29, 1914	18	.....do.....	35
21	Aluminium, salts of.	.....	Dec. 23, 1914	16	.....do.....	35
22	Alundum (corundum, natural and artificial, in all forms).	.....	Oct. 14, 1915	4	.....do.....	4
23	*Ammonia and its salts, whether simple or compound.*	*Varied Oct. 14, 1915. See Nos. 24 and 27.*	*Mar. 11, 1915*	.....	.....do.....	8
24	Ammonia liquor.	.....	Mar. 11, 1915	.....	.....do.....	8
25	*Ammonium nitrate*	*Included in "Nitrates," Oct. 14, 1915.*	*Dec. 23, 1914*	*4*	.....do.....	8

Absolute Contraband—Continued.

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26	*Ammonium perchlorate.*	*Included in No. 27, Oct. 14, 1915.*	*Dec. 23, 1914*	*4*	.....do.....	8
27	Ammonium salts.	.....	Oct. 14, 1915	8	.....do.....	8
28	*Aniline*.....	*See Nos. 29 and 30*	*Dec. 23, 1914*	*4*	.....do.....	8
29	*Aniline and its compounds.*	*See No. 30*	*Mar. 11, 1915*	.....	.....	.....
30	Aniline and its derivatives.	.....	Oct. 14, 1915	8	Oct. 14, 1915	8
31	*Animals, saddle, draft, and pack, suitable for use in war.*	*See No. 32*	*Aug. 4, 1914*	*7*	.....do.....	15
32	Animals, saddle, draft, and pack, suitable, or which may become suitable, for use in war.	.....	Oct. 14, 1915	15	.....do.....	15
33	Animal hair of all kinds, and tops, noils and yarns of animal hair.	See "Wool"...	Oct. 14, 1915	19	.....do.....	19
34	Antimony, together with the sulphides and oxides of antimony.	.....	Dec. 23, 1914	17	.....do.....	36
35	Apparatus and implements designed exclusively for the manufacture of munitions of war, or for the manufacture or repair of arms or of war material for use on land or sea.	See also No. 151	Aug. 4, 1914	12	.....do.....	2
36	Apparatus, submarine sound-signaling.	.....	Dec. 23, 1914	22	.....do.....	23
37	Armor plates	.....	Aug. 4, 1914	9	.....do.....	24
38	Arms of all kinds, including arms for sporting purposes,	*"Distinctive" omitted Oct. 14, 1915.*	Aug. 4, 1914	1	.....do.....	1

Absolute Contraband—Continued.

A. Number of Article in this List.	B. Article.	C. References and Notes.	D. Date of the Proclamation first declaring Article Absolute Contraband.	E. Number of paragraph of Schedule I in Proclamation in Column D.	F. Date of Proclamation under which Article is now Absolute Contraband.	G. Number of paragraph of Schedule I in Proclamation in Column F.
	and their *distinctive* component parts.					
39	Arms, implements and apparatus designed exclusively for the manufacture or repair of.	See No. 35	Aug. 4, 1914	12	.....do.....	2
40	Arsenic and its compounds.	.....	Oct. 14, 1915	9	.....do.....	9
41	Arsenical ore	.....	Oct. 14, 1915	41	.....do.....	41
42	Asbestos.....	.....	Oct. 14, 1915	34	.....do.....	34
43	Balata, any preparations containing.	See "Rubber".	Oct. 14, 1915	30	.....do.....	30
44	Balloons and their component parts, etc.	See No. 15	Aug. 4, 1914	11	.....do.....	25
45	Barbed wire, and the implements for fixing and cutting the same.	.....	Oct. 29, 1914	20	.....do.....	12
46	Barium chlorate .	.....	Dec. 23, 1914	4	.....do.....	8
47	Barium perchlorate	.....	Oct. 14, 1915	8	.....do.....	8
48	Bauxite.....	.....	Dec. 23, 1914	15	.....do.....	41
49	Belting, leather..	.....	Oct. 14, 1915	17	.....do.....	17
50	Benzine.....	.....	Oct. 14, 1915	28	.....do.....	28
51	*Benzol*.....	*See Nos. 52, 84.*	*Dec. 23, 1914*	4	.....do.....	8
52	Benzol and its mixtures and derivatives.	See No. 84	Oct. 14, 1915	8	.....do.....	8
53	Boats and their *distinctive* component parts of such a nature that they can only be used on a vessel of war.	See No. 283 *"Distinctive" omitted Oct. 14, 1915.*	Aug. 4, 1914	10	Oct. 14, 1915	22
54	Borneo rubber...	See "Rubber".	Oct. 14, 1915	30	.....do.....	30
55	Bromine.....	.....	Oct. 14, 1915	9	.....do.....	9
56	Buffaloes, hides of	.....	Mar. 11, 1915	.....	.....do.....	17
57	Calcium acetate *and all other metallic acetates.*	*Words in italics omitted May 27, 1915; "acetates" inserted Oct. 14, 1915.*	Dec. 23, 1914	4	.....do.....	8

Absolute Contraband—Continued.

A. Number of Article in this List.	B. Article.	C. References and Notes.	D. Date of the Proclamation first declaring Article Absolute contraband.	E. Number of paragraph of Schedule I in Proclamation in Column D.	F. Date of Proclamation under which Article is now Absolute Contraband.	G. Number of paragraph of Schedule I in Proclamation in Column F.
58	Calcium carbide .	.....	Oct. 14, 1915	8	.....do.....	8
59	Calcium nitrate..	.....	Dec. 23, 1914	4	.....do.....	8
60	Calves, skins of..	.....	Mar. 11, 1915	.....	.....do.....	17
61	Camp equipment, articles of, and their *distinctive* component parts.	*"Distinctive" omitted Oct. 14, 1915.*	Aug. 4, 1914	8	.....do.....	11
62	Camphor (oil and spirit).	.....	Dec. 23, 1914	5	.....do.....	29
63	Caoutchouc, all substances containing.	See "Rubber".	Oct. 14, 1915	30	.....do.....	30
64	Capsicum and peppers.	.....	Oct. 14, 1915	10	.....do.....	10
65	Carbolic acid (phenol and its mixtures and derivatives).	Included in *"Coal tar products," Dec. 23, 1914.*	Oct. 14, 1915	8	.....do.....	8
66	Carbon disulphide	.....	Oct. 14, 1915	9	.....do....	9
67	Carbonyl chloride (phosgene).	.....	Oct. 14, 1915	9	.....do.....	9
68	Carborundum, in all forms.	.....	Oct. 14, 1915	4	.....do.....	4
69	Cartridges of all kinds and their *distinctive* component parts.	*"Distinctive" omitted Oct. 14, 1915.*	Aug. 4, 1914	2	.....do.....	5
70	*Castor oil*	*Included in "Lubricants," Oct. 14, 1915.*	*Mar. 11, 1915*	.....	.....do.....	32
71	Cattle, hides of..	.....	Mar. 11, 1915	.....	.....do.....	17
72	Caustic potash...	.....	Oct. 14, 1915	8	.....do.....	8
73	Caustic soda	.....	Oct. 14, 1915	8	....do.....	8
74	Celluloid.....	.....	Oct. 14, 1915	8	.....do.....	8
75	Charges of all kinds and their *distinctive* component parts.	*"Distinctive" Omitted Oct. 14, 1915.*	Aug. 4, 1914	2	.....do.....	5
76	Chlorate, barium.	.....	Dec. 23, 1914	4	.....do.....	8
77	*Chlorate, potassium*	*Included in "Potassium salts," Oct. 14, 1915.*	*Dec. 23, 1914*	*4*	.....do.....	8
78	Chlorate, sodium.	.....	Dec. 23, 1914	4	.....do.....	8
79	Chloride, carbonyl (phosgene).....	.....	Oct. 14, 1915	9	.....do.....	9

Absolute Contraband—Continued.

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80	Chloride of tin...	.....	Mar. 11, 1915	.....	.....do.....	39
81	Chlorine.....	.....	Oct. 14, 1915	9	.....do.....	9
82	Chrome ore	.....	Oct. 29, 1914	15	.....do.....	41
83	Clothing of a distinctively military character.	.....	Aug. 4, 1914	5	.....do.....	14
84	*Coal tar, the fractions of the distillation products of, between benzol and cresol, inclusive.*	*See also No. 268. Varied Oct. 14, 1915, when certain of the products are specified, viz:* Benzol, toluol, xylol, solvent naphtha, phenol (carbolic acid), cresol, naphthalene, their mixtures and derivatives; aniline and its derivatives.	*Dec. 23, 1914*	4	.....	.....
85	*Coal tar, toluol, and mixtures of toluol derived from.*	*See Nos. 268 and 269. Varied Oct. 14, 1915.*	*May 27, 1915*	.....	*Oct. 14, 1915*	8
86	Cobalt.....	.....	Dec. 23, 1914	14	.....do.....	33
87	*Copper, unwrought.*	*See No. 88 ....*	*Oct. 29, 1914*	*16*	.....do.....	37
88	Copper, unwrought and part wrought, and copper wire.	*See No. 89 ....*	Dec. 23, 1914	18	*Oct. 14, 1915*	37
89	Copper, alloys and compounds of.	.....	Oct. 14, 1915	37	.....do.....	37
90	*Copper iodide....*	*Included in "Iodine and its compounds," Oct. 14, 1915.*	*Mar. 11, 1915*	.....	.....do.....	9
91	Copper ores	.....	Oct. 14, 1915	41	.....do.....	41
92	Copper pyrites...	.....	Oct. 14, 1915	41	.....do.....	41
93	Corundum, natural and artificial (alundum), in all forms.	.....	Oct. 14, 1915	4	.....do.....	4
94	Cotton, raw, linters, cotton waste, and cotton yarns.	See No. 95	Aug. 20, 1915	.....	.....do.....	20

Absolute Contraband—Continued.

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95	Cotton piece goods and other cotton products capable of being used in the manufacture of explosives.	.....	Oct. 14, 1915	20	.....do.....	20
96	*Cresol*.....	*See Nos. 84 and 97*	*Dec. 23, 1914*	4	.....do.....	8
97	Cresol and its mixtures and derivatives.	See No. 84	Oct. 14, 1915	8	.....do.....	8
98	Cyanamide.....	.....	Dec. 23, 1914	4	.....do.....	8
99	Cyanide, sodium.	.....	Oct. 14, 1915	9	.....do.....	9
100	Cycles, tires for..	See No. 275 ...	Dec. 23, 1914	25	.....do.....	27
101	Deer, skins of ...	.....	Mar. 11, 1915	.....	.....do.....	17
102	*Dimethylaniline*..	*Included in "Aniline and its derivatives," Oct. 14, 1915.*	*Dec. 23, 1914*	4	.....do.....	8
103	Dioxide, manganese.	.....	Oct. 14, 1915	9	.....do.....	9
104	Dioxide, sulphur .	....	Oct. 14, 1915	9	.....do.....	9
105	Disulphide, carbon.	.....	Oct. 14, 1915	9	.....do.....	9
106	Electrolytic iron .	.....	Oct. 14, 1915	33	.....do.....	33
107	Emery in all forms	.....	Oct. 14, 1915	4	.....do.....	4
108	Equipment of a distinctively military character.	.....	Aug. 4, 1914	5	.....do.....	14
109	Equipment, articles of camp, and their *distinctive* component parts.	*"Distinctive" omitted Oct. 14, 1915.*	Aug. 4, 1914	8	....do.....	11
110	Ether.....	....	Oct. 14, 1915	8	.....do.....	8
111	Ether, acetic	.....	Oct. 14, 1915	8	.....do.....	8
112	Ethyl alcohol....	.....	Oct. 14, 1915	8	.....do.....	8
113	*Explosives, ingredients of, viz:* Nitric acid, sulphuric acid, glycerine, acetone, calcium acetate, *and all other metallic acetates*, sulphur, *potassium nitrate,*	*See No. 114* ... Refer to each ingredient for date when first declared contraband.	*Dec. 23, 1914*	4	.....	.....

Absolute Contraband—Continued.

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	fractions of the distillation products of coal tar between benzol and cresol, inclusive, aniline, *methylaniline, dimethylaniline, ammonium perchlorate,* sodium perchlorate, sodium chlorate, barium chlorate, *ammonium nitrate,* cyanamide, *potassium chlorate,* calcium nitrate, mercury.					
114	Explosives, materials used in the manufacture of, including: Nitric acid and nitrates of all kinds; sulphuric acid; fuming sulphuric acid (oleum); acetic acid and acetates; barium chlorate and perchlorate; calcium acetate, nitrate and carbide; potassium salts and caustic potash; ammonium salts and ammonia liquor; caustic soda, sodium chlorate and perchlorate; mercury; benzol, toluol, xylol, solvent naphtha, phenol (carbolic acid), cresol, naphthalene, and their mixtures and de-	See also No. 115 Refer to each material for date when first declared contraband.	Oct. 14, 1915	8	Oct. 14, 1915	8

Absolute Contraband—Continued.

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	rivatives; aniline, and its derivatives; glycerine; acetone; acetic ether; ethyl alcohol; methyl alcohol; ether; sulphur; urea; cyanamide; celluloid.					
115	Explosives, the following forms of cotton capable of being used in the manufacture of, viz: Raw cotton, linters, cotton waste, cotton yarns, cotton piece goods, and other cotton products.	Refer to Nos. 94 and 95 for date when first declared contraband.	Oct. 14, 1915	20	Oct. 14, 1915	40
116	Explosives specially prepared for use in war.	.....	Aug. 4, 1914	3	...do.....	7
117	Ferro alloys, including: Ferro-tungsten, ferro-molybdenum, ferro-manganese, ferro-vanadium, and ferro-chrome.	Refer to each alloy for date when first declared contraband.	Dec. 23, 1914	13	.....do.....	40
118	Ferro-chrome....	.....	Oct. 29, 1914	15	.....do.....	40
119	Ferro-manganese.	.....	Dec. 23, 1914	13	.....do.....	40
120	Ferro-molybdenum.	.....	Dec. 23, 1914	13	.....do.....	40
121	*Ferro-silica*.....	*Not specified in later Proclamations.*	*Oct. 29, 1914*	19	.....	.....
122	Ferro-tungsten...	.....	Dec. 23, 1914	13	.....do.....	20
123	Ferro-vanadium .	.....	Dec. 23, 1914	13	.....do.....	40
124	Field forges and their *distinctive* component parts.	"*Distinctive*" *omitted Oct. 14, 1915.*	Aug. 4, 1914	4	.....do.....	11
125	Flax.....	.....	Oct. 14, 1915	21	...do.....	21
126	Fuming sulphuric acid (oleum).	.....	Oct. 14, 1915	8	.....do.....	8

Absolute Contraband—Continued.

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127	Glycerine	.....	Dec. 23, 1914	4	.....do.....	8
128	Goats, skins of...	.....	Mar. 11, 1915	.....	.....do.....	17
129	Guayule rubber..	See "Rubber".	Oct. 14, 1915	30	.....do.....	30
130	Gun mountings and their *distinctive* component parts.	*"Distinctive" omitted Oct. 14, 1915.*	Aug. 4, 1914	4	.....do.....	11
131	Gutta-percha, any preparations containing.	See "Rubber".	Oct. 14, 1915	30	.....do.....	30
132	Hematite iron ore	.....	Oct. 29, 1914	12	.....do.....	41
133	Hematite pig iron	.....	Oct. 29, 1914	12	.....do.....	33
134	Hair, animal, of all kinds, and tops, noils and yarns of animal hair.	See "Wool"...	Oct. 14, 1915	19	.....do.....	19
135	Harness, all kinds of, of a distinctively military character.	.....	Aug. 4, 1914	6	.....do.....	16
136	Hemp	.....	Oct. 14, 1915	21	.....do.....	21
137	Hides of cattle, buffaloes, and horses.	.....	Mar. 11, 1915	.....	.....do.....	17
138	Horses, hides of..	.....	Mar. 11, 1915	.....	.....do.....	17
139	Hydraulic leather	.....	Oct. 14, 1915	17	.....do.....	17
140	Hydrochloric acid	.....	Oct. 14, 1915	9	.....do.....	9
141	Implements and apparatus designed exclusively for the manufacture of munitions of war, or for the manufacture or repair of arms or of war material for use on land or sea.	See also No. 151	Aug. 4, 1914	12	.....do.....	2
142	Implements, the, for fixing and cutting barbed wire.	.....	Oct. 29, 1914	20	.....do.....	12
143	*Iodide, copper....*	*Included in No. 144, Oct. 14, 1915.*	*Mar. 11, 1915*	.....	.....do.....	9

Absolute Contraband—Continued.

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144	Iodine and its compounds.	.....	Oct. 14, 1915	9	.....do.....	9
145	Iron, electrolytic..	.....	Oct. 14, 1915	33	.....do.....	33
146	Iron ore, hematite	.....	Oct. 29, 1914	12	.....do.....	41
147	Iron, hematite pig	.....	Oct. 29, 1914	12	.....do.....	33
148	Iron pyrites	.....	Oct. 29, 1914	13	.....do.....	41
149	Jelutong rubber..	See "Rubber".	Oct. 14, 1915	30	.....do.....	30
150	Kapok.....	.....	Oct. 14, 1915	21	.....do.....	21
151	Lathes and other machines or machine tools capable of being employed in the manufacture of munitions of war.	See also No. 141	May 27, 1915	.....	.....do.....	3
152	Lead, pig, sheet, or pipe.	.....	Oct. 29, 1914	17	.....do.....	38
153	Lead ore.....	.....	Dec. 23, 1914	15	.....do.....	41
154	Leather, undressed or dressed, suitable for saddlery, harness, military boots, or military clothing.	See No. 155 ...	Mar. 11, 1915	.....	.....do.....	17
155	Leather belting, hydraulic leather, and pump leather.	.....	Oct. 14, 1915	17	.....do.....	17
156	Limbers and their *distinctive* component parts.	"*Distinctive*" *omitted Oct. 14, 1915.*	Aug. 4, 1914	4	.....do.....	11
157	Limber boxes and their *distinctive* component parts.	.....do.....	Aug. 4, 1914	4	.....do.....	11
158	Linters, cotton...	.....	Aug. 20, 1915	.....	.....do.....	20
159	Lubricants	.....	Mar. 11, 1915	14	Oct. 14, 1915	32
160	Machines capable of being employed in the manufacture of munitions of war.	See No. 151 ...	May 27, 1915	.....	.....do.....	3
161	Machine tools capable of being employed in the manufacture of munitions of war.	.....do.....	May 27, 1915	.....	.....do.....	3

Absolute Contraband—Continued.

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162	Manganese.....	.....	Dec. 23, 1914	14	.....do.....	33
163	Manganese dioxide.	.....	Oct. 14, 1915	9	.....do.....	9
164	Manganese ore ..	.....	Dec. 23, 1914	15	.....do.....	41
165	Maps and plans of any place within the territory of any belligerent, or within the area of military operations, on a scale of 4 miles to 1 inch or any larger scale, and reproductions on any scale, by photography or otherwise, of such maps or plans.	.....	May 27, 1915	.....	.....do.....	42
166	Mercury.....	.....	Dec. 23, 1914	4	.....do.....	8
167	*Metallic acetates, all.*	*Varied May 27, 1915. See No. 57.* "Acetates" specified Oct. 14, 1915.	*Dec. 23, 1914*	*4*	.....	.....
168	Metals, the following:					
	Tungsten, molybdenum, vanadium, nickel, selenium, cobalt, hematite, pig iron, manganese.	Refer to each metal for date when first declared contraband.	Dec. 14, 1914	.....	.....do.....	33
	Sodium, electrolytic iron, and steel containing tungsten or molybdenum.	Added to the above.	Oct. 14, 1915	33	.....do.....	33
169	Methyl alcohol ..	.....	Oct. 14, 1915	8	.....do.....	8
170	*Methylaniline....*	*Included in "Aniline and its derivatives," Oct. 14, 1915.*	*Dec. 23, 1914*	*4*	.....do.....	8
171	Military wagons	*"Distinctive"*	Aug. 4, 1914	4	.....do.....	11

Absolute Contraband—Continued.

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	and their *distinctive* component parts.	*omitted Oct. 14, 1915.*				
172	*Mineral oils and motor spirit, except lubricating oils.*	*Lubricants made absolute contraband Mar. 11, 1915. Further varied Oct. 14, 1915. See No. 173.*	*Oct. 29, 1914*	*25*	.....do.....	28
173	Mineral oils, including benzine and motor spirit.	.....	Oct. 14, 1915	28	.....do.....	28
174	Molybdenite	.....	Dec. 23, 1914	15	.....do.....	41
175	Molybdenum....	.....	Dec. 23, 1914	14	.....do.....	33
176	Molybdenum, steel containing.	.....	Oct. 14, 1915	33	.....do.....	33
177	Motor spirit.....	.....	Oct. 29, 1914	25	.....do.....	28
178	Motor tires.....	See also No. 275	Oct. 29, 1914	24	.....do.....	27
179	Motor vehicles of all kinds and their component parts.	.....	Oct. 29, 1914	23	.....do.....	26
180	Munitions of war, implements and apparatus designed exclusively for the manufacture of.	See No. 141 ...	Aug. 4, 1914	12	.....do.....	2
181	Munitions of war, lathes and other machines or machine tools capable of being employed in the manufacture of.	See also No. 141	May 27, 1915	.....	.....do.....	3
182	Naphtha, solvent, and its mixtures and derivatives.	Included in "*Coal-tar products,*" *Dec. 23, 1914.*	Oct. 14, 1915	8	.....do.....	8
183	Naphthalene, and its mixtures and derivatives.	.....do.....	Oct. 14, 1915	8	.....do.....	8
184	Nickel.....	.....	Oct. 29, 1914	14	.....do.....	33
185	Nickel ore.....	.....	Oct. 29, 1914	14	.....do.....	41
186	Nitrates of all kinds.	.....	Oct. 14, 1915	8	.....do.....	8

Absolute Contraband—Continued.

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187	*Nitrate, ammonium*	*Included in No. 186, Oct. 14, 1915.*	*Dec. 23, 1914*	*4*	.....do.....	8
188	Nitrate, calcium .	.....	Dec. 23, 1914	4	.....do.....	8
189	*Nitrate, potassium.*	*Included in No. 186, Oct. 14, 1915.*	*Dec. 23, 1914*	*4*	.....do.....	8
190	Nitric acid	.....	Dec. 23, 1914	4	Oct. 14, 1915	8
191	Noils of animal hair.	See "Wool"...	Oct. 14, 1915	19	.....do.....	19
192	Noils, wool.....	.....do.....	Mar. 11, 1915	.....	.....do.....	19
193	Oil, camphor	.....	Dec. 23, 1914	5	.....do.....	29
194	*Oil, castor*.....	*Included in "Lubricants," Oct. 14, 1915.*	*Mar. 11, 1915*	.....	.....do.....	32
195	*Oils, mineral, except lubricating oils.*	*Lubricants made absolute contraband Mar. 11, 1915. Further varied Oct. 14, 1915; see No. 196.*	*Oct. 29, 1914*	*25*	.....do.....	28
196	Oils, mineral, including benzine and motor spirit.	.....	Oct. 14, 1915	28	.....do.....	28
197	Oil, turpentine...	.....	Dec. 23, 1914	5	.....do.....	29
198	Oil, wood-tar....	.....	Oct. 14, 1915	29	.....do.....	29
199	Oleum (fuming sulphuric acid).	.....	Oct. 14, 1915	8	.....do.....	8
200	Ores, the following	.....	Dec. 23, 1914	15	.....do.....	41
	Wolframite, scheelite, molybdenite, manganese ore, nickel ore, chrome ore, hematite iron ore, zinc ore, lead ore, bauxite.	Refer to each ore for date when first declared contraband.				
	Iron pyrites, copper pyrites, and other copper ores, arsenical ore.	Added to the above.	Oct. 14, 1915	41	.....do.....	41
201	Ore, tin.....	.....	Mar. 11, 1915	.....	.....do.....	39

Absolute Contraband—Continued.

A. Number of Article in this List.	B. Article.	C. References and Notes.	D. Date of the Proclamation first declaring Article Absolute contraband.	E. Number of paragraph of Schedule I in Proclamation in Column D.	F. Date of Proclamation under which Article is now Absolute Contraband.	G. Number of paragraph of Schedule I in Proclamation in Column F.
202	Oxides of antimony, the.	.....	Dec. 23, 1914	17	.....do.....	36
203	Palembang rubber	See "Rubber".	Oct. 14, 1915	30	.....do.....	30
204	Paraffin wax.....	.....	Mar. 11, 1915	.....	.....do.....	6
205	Peppers.....	.....	Oct. 14, 1915	10	.....do.....	10
206	*Perchlorate, ammonium.*	*Included in "Ammonium salts," Oct. 14, 1915.*	*Dec. 23, 1914*	*4*	.....do.....	8
207	Perchlorate, barium.	.....	Oct. 14, 1915	8	.....do.....	8
208	Perchlorate, sodium.	.....	Dec. 23, 1914	4	.....do.....	8
209	*Petroleum, toluol and mixtures of toluol derived from.*	*See No. 268. Varied Oct. 14, 1915.*	*May 27, 1915*	.....	.....do.....	8
210	Phenol (carbolic acid) and its mixtures and derivatives.	*Included in "Coaltar products," Dec. 23, 1914.*	Oct. 14, 1915	8	.....do.....	8
211	Phosgene (carbonyl chloride).	.....	Oct. 14, 1915	9	.....do.....	9
212	Phosphorus	.....	Oct. 14, 1915	9	.....do.....	9
213	Pig iron, hematite.	.....	Oct. 29, 1914	12	.....do.....	33
214	Pigs, skins of....	.....	Mar. 11, 1915	.....	.....do.....	17
215	Plans (see Maps).	.....	May 27, 1915	.....	.....do.....	42
216	Pontianac rubber.	See "Rubber".	Oct. 14, 1915	30	.....do.....	30
217	Potash, caustic ..	.....	Oct. 14, 1915	8	.....do.....	8
218	*Potassium chlorate.*	*Included in No. 220, Oct. 14, 1915.*	*Dec. 23, 1914*	*4*	.....do.....	8
219	*Potassium nitrate.*	*Included in "Nitrates," Oct. 14, 1915.*	*Dec. 23, 1914*	*4*	.....do.....	8
220	Potassium salts..	.....	Oct. 14, 1915	8	.....do.....	8
221	Powder and explosives specially prepared for use in war.	.....	Aug. 4, 1914	3	.....do.....	7
222	Projectiles of all kinds and their *distinctive* component parts.	*"Distinctive" omitted Oct. 14, 1915.*	Aug. 4, 1914	2	.....do.....	5
223	Prussiate of soda.	.....	Oct. 14, 1915	9	.....do.....	9
224	Pump leather....	.....	Oct. 14, 1915	17	.....do.....	17
225	Pyrites, copper,	.....	Oct. 14, 1915	41	.....do.....	41

Absolute Contraband—Continued.

A. Number of Article in this List.	B. Article.	C. References and Notes.	D. Date of the Proclamation first declaring Article Absolute Contraband.	E. Number of paragraph of Schedule I in Proclamation in Column D.	F. Date of Proclamation under which Article is now Absolute Contraband.	G. Number of paragraph of Schedule I in Proclamation in Column F.
	and other copper ores.					
226	Pyrites, iron.....	.....	Oct. 29, 1914	13	.....do.....	41
227	Quebracho wood.	.....	Oct. 14, 1915	18	.....do.....	18
228	Ramie.....	.....	Oct. 14, 1915	21	.....do.....	21
229	Range finders and their *distinctive* component parts.	*"Distinctive", Omitted Oct. 14, 1915.*	Oct. 29, 1914	6	.....do.....	13
230	Rattans.....	.....	Oct. 14, 1915	31	.....do.....	31
231	Resinous products, camphor and turpentine (oil and spirit).	.....	Dec. 23, 1914	5	Oct. 14, 1915	29
	Wood tar and wood-tar oil.	Added to the above.	Oct. 14, 1915	29		
232	*Rubber*.....	*See No. 233* ...	*Oct. 29, 1914*	*24*	.....do.....	30
233	*Rubber (including raw, waste, and reclaimed rubber), and goods made wholly of rubber.*	*See No. 234* ...	*Dec. 23, 1914*	*26*	.....do.....	30
234	Rubber (including raw, waste, and reclaimed rubber, solutions and jellies containing rubber, or any other preparations containing rubber, balata, and gutta-percha, and the following varieties of rubber, viz.: Borneo, Guayule, Jelutong, Palembang, Pontianac, and all other substances containing caoutchouc), and goods made wholly or partly of rubber.	.....	Oct. 14, 1915	30	.....do.....	30
235	Salts of aluminium.	.....	Dec. 23, 1914	16	.....do.....	35
236	*Salts, ammonia and*	*Varied Oct. 14,*	*Mar. 11, 1915*	.....	.....do.....	8

Absolute Contraband—Continued.

A. Number of Article in this List.	B. Article.	C. References and Notes.	D. Date of the Proclamation first declaring Article Absolute Contraband.	E. Number of paragraph of Schedule I in Proclamation in Column D.	F. Date of Proclamation under which Article is now Absolute Contraband.	G. Number of paragraph of Schedule I in Proclamation in Column F.
	its, whether simple or compound.	*1915. See Nos. 237 and 24.*				
237	Salts, ammonium.	.....	Oct. 14, 1915	8	.....do.....	8
238	Salts, potassium..	.....	Oct. 14, 1915	8	.....do.....	8
239	Scheelite.....	.....	Dec. 23, 1914	15	.....do.....	41
240	Searchlights and their component parts.	.....	Oct. 14, 1915	13	.....do.....	13
241	Selenium.....	.....	Dec. 23, 1914	14	.....do.....	33
242	Sheep, skins of...	.....	Mar. 11, 1915	.....	.....do.....	17
243	Signaling apparatus, submarine sound.	.....	Dec. 23, 1914	22	.....do.....	23
244	Skins of calves, pigs, sheep, goats, and deer.	.....	Mar. 11, 1915	.....	.....do.....	17
245	Soda, caustic	.....	Oct. 14, 1915	8	.....do.....	8
246	Soda, prussiate of.	.....	Oct. 14, 1915	9	.....do.....	9
247	Sodium.....	.....	Oct. 14, 1915	33	.....do.....	33
248	Sodium chlorate .	.....	Dec. 23, 1914	4	.....do.....	8
249	Sodium cyanide..	.....	Oct. 14, 1915	9	.....do.....	9
250	Sodium perchlorate.	.....	Dec. 23, 1914	4	.....do.....	8
251	Solvent naphtha and its mixtures and derivatives.	Included in "*Coal-tar products*" *Dec. 23, 1914.*	Oct. 14, 1915	8	.....do	8
252	Spirit, camphor..	.....	Dec. 23, 1914	5	.....do.....	29
253	Spirit, motor	.....	Oct. 29, 1914	25	.....do.....	28
254	Spirit, turpentine.	.....	Dec. 23, 1914	5	.....do.....	29
255	Steel containing tungsten or molybdenum.	.....	Oct. 14, 1915	33	.....do.....	33
		.....	Oct. 14, 1915	33	.....do.....	33
256	Submarine sound-signaling apparatus.	.....	Dec. 23, 1914	22	.....do.....	23
257	Sulphides of antimony, the.	.....	Dec. 23, 1914	17	.....do.....	36
258	Sulphur.....	.....	Dec. 23, 1914	4	.....do.....	8
259	Sulphur dioxide..	.....	Oct. 14, 1915	9	.....do.....	9
260	Sulphuric acid...	.....	Oct. 29, 1914	4	.....do.....	8
261	Sulphuric acid, fuming (oleum).	.....	Oct. 14, 1915	8	.....do.....	8
262	Tanning substances of all kinds, including	.....	Oct. 14, 1915	18	.....do.....	18

Absolute Contraband—Continued.

A. Number of Article in this List.	B. Article.	C. References and Notes.	D. Date of the Proclamation first declaring Article Absolute Contraband.	E. Number of paragraph of Schedule I in Proclamation in Column D.	F. Date of Proclamation under which Article is now Absolute Contraband.	G. Number of paragraph of Schedule I in Proclamation in Column F.
	quebracho wood and extracts for use in tanning.					
263	*Tar, coal.* (*See under "Coal tar and toluol."*)					
264	Tar, wood and wood-tar oil.	.....	Oct. 14, 1915	29	.....do.....	29
265	Tin.....	.....	Mar. 11, 1915	.....	.....do.....	39
266	Tin, chloride of..	.....	Mar. 11, 1915	.....	.....do.....	39
267	Tin ore.....	.....	Mar. 11, 1915	.....	.....do.....	39
268	*Toluol, and mixtures of toluol, whether derived from coal tar, petroleum, or any other source.*	*See No. 269 and also No. 84.*	*May 27, 1915*	.....	.....do.....	8
269	Toluol and its mixtures and derivatives.	See No. 268 ...	Oct. 14, 1915	8	.....do.....	8
270	Tops of animal hair.	See "Wool"...	Oct. 14, 1915	19	.....do.....	19
271	Tops, wool.....	.....	Mar. 11, 1915	.....	.....do.....	19
272	Tungsten.....	.....	Dec. 23, 1914	14	.....do.....	33
273	Tungsten, steel containing.	.....	Oct. 14, 1915	33	.....do.....	33
274	Turpentine (oil and spirit).	.....	Dec. 23, 1914	5	.....do.....	29
275	Tires for motor vehicles and for cycles, together with articles or materials especially adapted for use in the manufacture or repair of tires.	.....	Dec. 23, 1914	25	Oct. 14, 1915	27
276	*Tires, motor*	*See No. 275* ...	*Oct. 29, 1914*	*24*	.....do.....	27
277	Urea *and its compounds.*	*Words in italics Omitted Oct. 14, 1915.*	Mar. 11, 1915	.....	.....do.....	8
278	Vanadium.....	.....	Dec. 23, 1914	14	.....do.....	33
279	Vehicles, motor, of all kinds and their component parts.	.....	Oct. 29, 1914	23	.....do.....	26

Absolute Contraband—Continued.

A. Number of Article in this List.	B. Article.	C. References and Notes.	D. Date of the Proclamation first declaring Article Absolute contraband.	E. Number of paragraph of Schedule I in Proclamation in Column D.	F. Date of Proclamation under which Article is now Absolute Contraband.	G. Number of paragraph of Schedule I in Proclamation in Column F.
280	Vehicles, tires for motor.	See No. 275 ...	Dec. 23, 1914	25	.....do.....	27
281	Wagons, military, and their *distinctive* component parts.	*"Distinctive" omitted Oct. 14, 1915.*	Aug. 4, 1914	4	.....do.....	11
282	War material for use on land or sea, implements and apparatus designed exclusively for the manufacture or repair of.	See No. 141 ...	Aug. 4, 1914	12	.....do.....	2
283	Warships, including boats and their *distinctive* component parts of such a nature that they can only be used on a vessel of war.	*"Distinctive" omitted Oct. 14, 1915.*	Aug. 4, 1914	.....	.....do.....	22
284	Waste, cotton ...	.....	Aug. 20, 1915	.....	.....do.....	20
285	Waste rubber....	.....	Oct. 14, 1915	30	.....do.....	30
286	Waste, wool.....	.....	Oct. 14, 1915	19	.....do.....	19
287	Wax, paraffin....	.....	Mar. 11, 1915	.....	.....do.....	6
288	Wire, barbed, and the implements for fixing and cutting the same.	.....	Oct. 29, 1914	20	.....do.....	12
289	Wire, copper	.....	Dec. 23, 1914	18	.....do.....	37
290	Wolframite.....	.....	Dec. 23, 1914	15	.....do.....	41
291	Wood, quebracho.	.....	Oct. 14, 1915	18	.....do.....	18
292	Wood, tar and wood-tar oil.	.....	Oct. 14, 1915	29	.....do.....	29
293	*Wool, raw, wool tops and noils and woolen and worsted yarns.*	*See No. 294 ...*	*Mar. 11, 1915*	.....	.....do.....	19
294	Wool, raw, combed or carded; wool waste; wool tops and noils; woolen or worsted yarns; animal hair of all kinds, and tops,	See No. 293 ...	Oct. 14, 1915	19	.....do.....	19

Absolute Contraband—Continued.

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	noils and yarns of animal hair.					
295	Yarns of animal hair.	.....	Oct. 14, 1915	19	.....do.....	19
296	Yarns, cotton....	.....	Aug. 20, 1915	.....	.....do.....	20
297	Yarns, woolen or worsted.	.....	Mar. 11, 1915	.....	.....do.....	19
298	Zinc ore	.....	Dec. 23, 1914	15	.....do.....	41
299	Xylol, and its mixtures and derivatives.	*Included in "Coaltar products," Dec. 23, 1914.*	Oct. 14, 1915	8	.....do.....	8

Conditional Contraband.

[List compiled to Nov. 5, 1915.]

NOTE.—Articles printed in *italics* have been varied or withdrawn by later Proclamations.

A. Number of Article in this List.	B. Article.	C. References and Notes.	D. Date of Proclamation first declaring Article Conditional Contraband.	E. Number of paragraph of Schedule II in Proclamation in Column D.	F. Date of Proclamation under which Article is now Conditional Contraband.	G. Number of paragraph of Schedule II in Proclamation in Column F.
1	*Barbed wire, and implements fixing and cutting the same.*	*Made absolute contraband Oct. 29, 1914.*	*Aug. 4, 1914*	*10*	.....	.....
2	Boats of all kinds.	See No. 283 of absolute contraband.	Aug. 4, 1914	6	Oct. 14, 1915	12
3	Boots and shoes, if suitable for use in war.	.....	Aug. 4, 1914	3	.....do.....	9
4	Bullion, gold or silver.	.....	Aug. 4, 1914	4	.....do.....	14
5	*Cakes and meals made from oleagi-*	*See No. 21; included in "Feed-*	*Mar. 11, 1915*	.....	Oct. 14, 1915	2

Conditional Contraband—Continued.

A. Number of Article in this List.	B. Article.	C. References and Notes.	D. Date of Proclamation first declaring Article Conditional Contraband.	E. Number of paragraph of Schedule II in Proclamation in Column D.	F. Date of Proclamation under which Article is now Conditional Contraband.	G. Number of paragraph of Schedule II in Proclamation in Column F.
	nous seeds, nuts, and kernels.	*ing stuffs for animals" Oct. 14, 1915.*				
6	Chronometers ...	.....	Aug. 4, 1914	13	.....do.....	13
7	Clothing and fabrics for clothing, if suitable for use in war.	.....	Aug. 4, 1914	3	.....do.....	9
8	Coin, gold, or silver; paper money.	.....	Aug. 4, 1914	4	.....do.....	14
9	*Copper, unwrought.*	*Made absolute contraband Oct. 29, 1914.*	*Sept. 21, 1914*	.....	.....	.....
10	Craft of all kinds.	See No. 283 of absolute contraband.	Aug. 4, 1914	6	Oct. 14, 1915	12
11	Docks, floating, and their component parts.	.....	Aug. 4, 1914	6	.....do.....	12
12	Docks, parts of ..	.....	Aug. 4, 1914	6	.....do.....	12
13	Explosives not specially prepared for use in war.	.....	Aug. 4, 1914	9	.....do.....	6
14	Fabrics for clothing, if suitable for use in war.	.....	Aug. 4, 1914	3	.....do.....	9
15	*Fats, animal and vegetable (other than linseed oil), suitable for use in the manufacture of margarine.*	*Linseed oil made conditional contraband May 27, 1915. Varied Oct. 14, 1915. See No. 16.*	*Mar. 11, 1915*	.....	.....	.....
16	Fats, animal, fish, and vegetable, other than those capable of use as lubricants.	See No. 52	Oct. 14, 1915	4	Oct. 14, 1915	4
17	Feeding stuffs for animals.	*See No. 21*	Oct. 29, 1914	2	.....do.....	2
18	*Ferrochrome.....*	*Made absolute contraband Oct. 29, 1914.*	*Sept. 21, 1914*	.....	.....	.....
19	Field glasses.....	.....	Aug. 4, 1914	13	Oct. 14, 1915	13
20	Floating docks and	.....	Aug. 4, 1914	6	.....do.....	12

Conditional Contraband—Continued.

A. Number of Article in this List.	B. Article.	C. References and Notes.	D. Date of Proclamation first declaring Article Conditional Contraband.	E. Number of paragraph of Schedule II in Proclamation in Column D.	F. Date of Proclamation under which Article is now Conditional Contraband.	G. Number of paragraph of Schedule II in Proclamation in Column F.
	their component parts; parts of docks.					
21	Foodstuffs..... *The terms "foodstuffs" and "feeding stuffs for animals" declared to include oleaginous seeds, nuts, and kernels; animal and vegetable oils and fats (other than linseed oil) suitable for use in the manufacture of margarine; and cakes and meals made from oleaginous seeds, nuts, and kernels.*	..... *This definition not included Oct. 14, 1915.*	Aug. 4, 1914 *March 11, 1915*	1	.....do.....	1 .....
22	*Forage and grain, suitable for feeding animals.*	*Varied on Oct. 29, 1914. See No. 23.*	*Aug. 4, 1914*	*2*	Oct. 14, 1915	2
23	Forage and feeding stuffs for animals.	*See No. 21*	Oct. 29, 1914	2	.....do.....	2
24	*Fuel*.....	*See No. 25*	*Aug. 4, 1914*	*8*	.....	.....
25	Fuel, other than mineral oils.	.....	Oct. 29, 1914	8	Oct. 14, 1915	5
26	Furs utilizable for clothing, if suitable for use in war.	.....	Oct. 14, 1915	9	.....do.....	9
27	Glasses, field.....	.....	Aug. 4, 1914	13	.....do.....	13
28	*Glycerine*.....	*Made absolute contraband Dec. 23, 1914.*	*Sept. 21, 1914*	.....	.....	.....
29	*Grain, suitable for feeding animals.*	*Varied on Oct. 29, 1914. See No. 23.*	*Aug. 4, 1914*	*2*	Oct. 14, 1915	2
30	Gold, in coin or bullion.	.....	Aug. 4, 1914	4	.....do.....	14
31	*Hematite iron ore.*	*Made absolute contraband Oct. 29, 1914.*	*Sept. 21, 1914*	.....	.....	.....

Conditional Contraband—Continued.

A. Number of Article in this List.	B. Article.	C. References and Notes.	D. Date of Proclamation first declaring Article Conditional Contraband.	E. Number of paragraph of Schedule II in Proclamation in Column D.	F. Date of Proclamation under which Article is now Conditional Contraband.	G. Number of paragraph of Schedule II in Proclamation in Column F.
32	Harness and saddlery.	See No. 135 of absolute contraband.	Aug. 4, 1914	12	Oct. 14, 1915	8
33	*Hides, raw or rough tanned (but not including dressed leather).*	*Varied Oct. 29, 1914. See Nos. 34 and 42.*	*Sept. 21, 1914*	.....	.....	.....
34	*Hides of all kinds, dry or wet.*	*See No. 137 of absolute contraband for certain hides made absolute contraband on Mar. 11, 1915. Hides not included in conditional contraband Oct. 14, 1915.*	*Oct. 29, 1914*	*14*	.....	.....
35	Horseshoes and shoeing materials.	.....	Aug. 4, 1914	11	Oct. 14, 1915	7
36	*Implements for fixing and cutting barbed wire.*	*Made absolute contraband Oct. 29, 1914.*	*Aug. 4, 1914*	*10*	.....	.....
37	Instruments, all kinds of nautical.	.....	Aug. 4, 1914	13	Oct. 14, 1915	13
38	*Iron ore, hematite.*	*Made absolute contraband Oct. 29, 1914.*	*Sept. 21, 1914*	.....	.....	.....
39	*Iron ore, magnetic.*	*Not specified in later lists.*	*Sept. 21, 1914*	.....	.....	.....
40	Kernels, nuts and.	*See also No. 5.*	Mar. 11, 1915	.....	Oct. 14, 1915	3
41	*Lead, pig, sheet, or pipe.*	*Made absolute contraband Oct. 29, 1914.*	*Sept. 21, 1914*	.....	.....	.....
42	*Leather, undressed or dressed, suitable for saddlery, harness, or military boots.*	*Made absolute contraband Mar. 11, 1915.*	*Oct. 29, 1914*	*14*	.....	.....
43	*Linseed oil.....*	*Included in "Oils, vegetable," Oct. 14, 1915.*	*May 27, 1915*	.....	Oct. 14, 1915	4

Conditional Contraband—Continued.

A. Number of Article in this List.	B. Article.	C. References and Notes.	D. Date of Proclamation first declaring Article Conditional Contraband.	E. Number of paragraph of Schedule II in Proclamation in Column D.	F. Date of Proclamation under which Article is now Conditional Contraband.	G. Number of paragraph of Schedule II in Proclamation in Column F.
44	*Lubricants*.....	*Made absolute contraband Mar. 11, 1915.*	*Aug. 4, 1914*	*8*	.....	.....
45	*Magnetic iron ore.*	*Not specified in later lists.*	*Sept. 21, 1914*	.....	.....	.....
46	*Meals made from oleaginous seeds, nuts, and kernels.*	*See No. 21. Included in "feeding stuffs for animals" Oct. 14, 1915.*	*Mar. 11, 1915*	.....	Oct. 14, 1915	2
47	Money, paper; gold and silver in coin or bullion.	.....	Aug. 4, 1914	4	.....do.....	14
48	Nautical instruments, all kinds of.	.....	Aug. 4, 1914	13	.....do.....	13
49	Nuts and kernels.	*See also No. 5.*	Mar. 11, 1915	.....	.....do.....	3
50	*Oil, linseed*.....	*Included in "Oils, vegetable," Oct. 14, 1915.*	*May 27, 1915*	.....	Oct. 14, 1915	4
51	*Oils, animal and vegetable (other than linseed oil), suitable for use in the manufacture of margarine.*	*Linseed oil made conditional contraband, May 27, 1915. Varied, Oct. 14, 1915. See No. 52.*	*Mar. 11, 1915*	.....	.....	.....
52	Oils, animal, fish, and vegetable, other than those capable of use as lubricants, and not including essential oils.	See No. 16.....	Oct. 14, 1915	4	Oct. 14, 1915	4
53	Oleaginous seeds.	*See also No. 5*..	Mar. 11, 1915	.....	.....do.....	3
54	*Ore, hematite iron.*	*Made absolute contraband Oct. 29, 1914.*	*Sept. 21, 1914*	.....	.....	.....
55	*Ore, magnetic iron.*	*Not specified in later lists.*	*Sept. 21, 1914*	.....	.....	.....
56	Paper money....	.....	Aug. 4, 1914	4	Oct. 14, 1915	14
57	*Pigskins, raw or dressed.*	*Made absolute contraband*	*Oct. 29, 1914*	*14*	.....	.....

Conditional Contraband—Continued.

A. Number of Article in this List.	B. Article.	C. References and Notes.	D. Date of Proclamation first declaring Article Conditional Contraband.	E. Number of paragraph of Schedule II in Proclamation in Column D.	F. Date of Proclamation under which Article is now Conditional Contraband.	G. Number of paragraph of Schedule II in Proclamation in Column F.
		Mar. 11, 1915.				
58	Powder and explosives, not specially prepared for use in war.	.....	Aug. 4, 1914	9	Oct. 14, 1915	6
59	Railway materials, both fixed and rolling stock.	.....	Aug. 4, 1914	7	.....do.....	11
60	Rolling stock, railway materials.	.....	Aug. 4, 1914	7	.....do.....	11
61	*Rubber*.....	*Made absolute contraband Oct. 29, 1914.*	*Sept. 21, 1914*	.....	.....	.....
62	Saddlery.....	See No. 135 of absolute contraband.	Aug. 4, 1914	12	Oct. 14, 1915	8
63	Seeds, oleaginous.	*See also No. 5*	Mar. 11, 1915	.....	.....do.....	3
64	Shoeing materials.	.....	Aug. 4, 1914	11	.....do.....	7
65	Shoes, if suitable for use in war.	.....	Aug. 4, 1914	3	.....do.....	9
66	Silver in coin or bullion.	.....	Aug. 4, 1914	4	.....do.....	14
67	*Skins, raw or rough tanned (but not including dressed leather).*	*Varied Oct. 29, 1914. See Nos. 42, 68, and 69.*	*Sept. 21, 1914*	.....	.....	.....
68	*Skins (pig), raw or dressed.*	*Made absolute contraband Mar. 11, 1915.*	*Oct. 29, 1914*	*14*	.....	.....
69	Skins utilizable for clothing, if suitable for use in war.	See No. 244 of absolute contraband for certain skins made absolute contraband Mar. 11, 1915.	Oct. 14, 1915	9	Oct. 14, 1915	9
70	*Sulphur*.....	*Made absolute contraband Dec. 23, 1914.*	*Oct. 29, 1914*	*10*	.....	.....
71	*Tanning substances of all kinds (including extracts for use in tanning).*	*Made absolute contraband Oct. 14, 1915.*	*Mar. 11, 1915*	.....	.....	.....

Conditional Contraband—Continued.

A. Number of Article in this List.	B. Article.	C. References and Notes.	D. Date of Proclamation first declaring Article Conditional Contraband.	E. Number of paragraph of Schedule II in Proclamation in Column D.	F. Date of Proclamation under which Article is now Conditional Contraband.	G. Number of paragraph of Schedule II in Proclamation in Column F.
72	Telegraphs, wireless telegraphs, and telephones, materials for.	.....	Aug. 4, 1914	7	Oct. 14, 1915	11
73	Telephones, materials for.	.....	Aug. 4, 1914	7	.....do.....	11
74	Telescopes.....	.....	Aug. 4, 1914	13	.....do.....	13
75	Vehicles of all kinds, other than motor vehicles, available for use in war, and their component parts.	..... "Other than motor vehicles" added.	*Aug. 4, 1914* Oct. 29, 1914	*5* 5	..... Oct. 14, 1915	 10
76	Vessels, craft, and boats of all kinds.	See No. 283 of absolute contraband.	Aug. 4, 1914	6	.....do.....	12
77	*Wire, barbed, and implements for fixing and cutting the same.*	*Made absolute contraband Oct. 29, 1914.*	*Aug. 4, 1914*	*10*	.....	.....
78	Wireless telegraphs, materials for.	.....	Aug. 4, 1914	7	Oct. 14, 1915	11

Consul General Skinner to the Secretary of State.

[Extract.]

No. 1140.] AMERICAN CONSULATE GENERAL,
London, February 1, 1916.

SIR: I have the honor to acknowledge the receipt of Department's instruction.[1]

I am inclosing herewith a supplement of The London Gazette, No. 29452, issued January 27, 1916, containing the official text of the proclamation referred to in the foregoing.

I have, etc.,

ROBERT P. SKINNER.

[1] Not printed.

[Inclosure.]

PROCLAMATION JANUARY 27, 1916, REVISING THE LIST OF ARTICLES TO BE TREATED AS CONTRABAND OF WAR.

GEORGE, R. I.

Whereas on the 14th day of October, 1915, We did issue Our Royal Proclamation specifying the articles which it was Our intention to treat as contraband during the continuance of hostilities or until We did give further public notice; and

Whereas it is expedient to make certain further additions to and amendments in the said list:

Now, therefore, We do hereby declare, by and with the advice of Our Privy Council, that during the continuance of the war or until We do give further public notice the following articles will be treated as absolute contraband, in addition to those set out in Schedule I of Our Royal Proclamation aforementioned:

Cork, including cork dust.

Bones in any form, whole or crushed, and bone ash.

Soap.

Vegetable fibres and yarns made therefrom.

And We do hereby further declare that as from this date the following amendments shall be made in Schedule I of Our Royal Proclamation aforementioned:

In item 8, for "acetone" shall be substituted "acetones, and raw or finished materials usable for their preparation."

In item 9, for "phosphorus" shall be substituted "phosphorus and its compounds."

In item 26 there shall be added after the word "parts" the words "and accessories."

In item 38 the more general term "lead" shall be substituted for the words "lead, pig, sheet, or pipe."

And We do hereby further declare that the following articles shall as from this date be treated as conditional contraband in addition to those set out in Schedule II of Our Royal Proclamation aforementioned:

Casein.

Bladders, guts, casings, and sausage skins.

Given at Our Court at Buckingham Palace, this twenty-seventh day

of January, in the year of our Lord one thousand nine hundred and sixteen, and in the Sixth year of Our Reign.

Ambassador W. H. Page to the Secretary of State.

No. 3506.] AMERICAN EMBASSY,
London, April 18, 1916.

SIR: Referring to my cablegram No. 4166 of the 17th [1] instant giving the substance of a Proclamation, dated April 12, 1916, making certain additions to and amendments in the List of Articles to be treated as contraband of war during the continuance of hostilities, I have the honor to transmit herewith to the Department seven (7) copies of the extract from the Second Supplement to the London Gazette of Tuesday, April 11, 1916, in which the above-mentioned proclamation is published.

I have, etc.,

WALTER HINES PAGE.

[Inclosure.]

A PROCLAMATION MAKING CERTAIN ADDITIONS TO AND AMENDMENTS IN THE LIST OF ARTICLES TO BE TREATED AS CONTRABAND OF WAR.

GEORGE R. I.

Whereas on the 14th day of October, 1915, We did issue Our Royal Proclamation specifying the articles which it was Our intention to treat as contraband during the continuance of hostilities, or until We did give further public notice;

And whereas on the 27th day of January, 1916, We did by Our Royal Proclamation of that date make certain additions to and modification in the list of articles to be treated as contraband;

And whereas it is expedient to make certain further additions to and modifications in the said list:

Now, therefore, We do hereby declare, by and with the advice of Our Privy Council, that during the continuance of the war or until We do give further public notice, the following articles will be treated

[1] Not printed.

as absolute contraband in addition to those set out in Our Royal Proclamations aforementioned:

Gold, silver, paper money, and all negotiable instruments and realizable securities.

Metallic chlorides, except chloride of sodium; metalloidic chlorides; halogen compounds of carbon.

Starch.

Borax, boric acid, and other boron compounds.

Sabadilla seeds and preparations therefrom.

And We do hereby further declare that as from this date the following amendments shall be made in Schedule 1 of Our Royal Proclamation aforesaid:

In item 3 the following shall be substituted for the present wording:

"Lathes, machines, and tools capable of being employed in the manufacture of munitions of war."

In item 8 for "ether" shall be substituted "formic ether; sulphuric ether."

And We do hereby further declare that no gold, silver, or paper money captured after this date shall be treated as conditional contraband, and that, except as to captures already effected, item 14 shall as from this date be struck out of Schedule II of Our Royal Proclamation aforementioned.

Given at Our Court at Buckingham Palace, this twelfth day of April, in the year of our Lord, one thousand nine hundred and sixteen, and in the Sixth year of Our Reign.

Report from the Consulate General at London to the Secretary of State.

[Extract.]

AMERICAN CONSULATE GENERAL,
London, April 20, 1916.

Vice Consul Reed reports that a White Paper has been issued under the authority of the British Foreign Office which states in part that the distinction between the two classes of contraband has ceased to have any value and that the treatment of them must be identical. Copies of the White Paper are enclosed.

[Inclosure.]

LIST OF ARTICLES DECLARED TO BE CONTRABAND OF WAR—PRESENTED TO BOTH HOUSES OF PARLIAMENT BY COMMAND OF HIS MAJESTY, APRIL, 1916.

The articles declared to be contraband of war in the proclamations now in force have been arranged alphabetically in the accompanying list. It is hoped that this will be convenient to all parties concerned.

The list comprises the articles which have been declared to be absolute contraband as well as those which have been declared to be conditional contraband. The circumstances of the present war are so peculiar that His Majesty's Government consider that for practical purposes the distinction between the two classes of contraband has ceased to have any value. So large a proportion of the inhabitants of the enemy country are taking part, directly or indirectly, in the war that no real distinction can now be drawn between the armed forces and the civilian population. Similarly, the enemy Government has taken control, by a series of decrees and orders, of practically all the articles in the list of conditional contraband, so that they are now available for Government use. So long as these exceptional conditions continue our belligerent rights with respect to the two kinds of contraband are the same and our treatment of them must be identical.

FOREIGN OFFICE, *April 13, 1916.*

LIST OF ARTICLES.

Acetic acid and acetates.

Acetic ether.

Acetones, and raw and finished materials, usable for their preparation.

Aircraft of all kinds, including aeroplanes, airships, balloons, and their component parts, together with accessories and articles suitable for use in connection with aircraft.

Aluminium, alumina, and salts of aluminium.

Ammonia liquor.

Ammonium salts.

Aniline and its derivatives.

Animals, saddle, draught, or pack, suitable, or which may become suitable, for use in war.

Antimony, together with the sulphides and oxides of antimony.

Apparatus designed exclusively for the manufacture of munitions of war, or for the manufacture or repair of arms or of war material for use on land or sea.

Armor plates.

Arms of all kinds, including arms for sporting purposes, and their component parts.

Arsenic and its compounds.

Arsenical ore.

Articles especially adapted for use in the manufacture or repair of tyres.

Asbestos.

Barbed wire.

Barium chlorate and perchlorate.

Bauxite.

Benzol and its mixtures and derivatives.

Bladders, guts, casings, and sausage skins.

Bones in any form, whole or crushed, and bone ash.

Boots and shoes suitable for use in war.

Borax, boric acid, and other boron compounds.

Bromine.

Calcium acetate, calcium nitrate, and calcium carbide.

Camp equipments, articles of, and their component parts.

Camphor.

Capsicum.

Carbon disulphide.

Carbon, halogen compounds of.

Carbonyl chloride.

Carborundum in all forms.

Casein.

Caustic potash and caustic soda.

Celluloid.

Charges and cartridges of all kinds and their component parts.

Chlorides, metallic (except chloride of sodium) and mettaloidic.

Chlorine.

Chrome ore.

Chronometers.

Clothing and fabrics for clothing suitable for use in war.

Clothing of a distinctively military character.

Cobalt.

Copper pyrites and other copper ores.

Copper unwrought and part wrought, copper wire, alloys and compounds of copper.

Cork, including cork dust.

Corundum, natural and artificial (alundum), in all forms.

Cotton, raw, linters, cotton waste, cotton yarns, cotton piece-goods, and other cotton products capable of being used in the manufacture of explosives.

Cresol and its mixtures and derivatives.

Cyanamide.

Docks, parts of.

Emery in all forms.

Equipment of a distinctively military character.

Ethyl alcohol.

Explosives, whether specially prepared for use in war or not.

Ferro alloys, including ferro-tungsten, ferro-molybdenum, ferro-manganese, ferro-vanadium, and ferro-chrome.

Field forges and their component parts.

Field glasses.

Flax.

Floating docks and their component parts.

Foodstuffs.

Forage and feeding stuffs for animals.

Formic ether.

Fuel, other than mineral oils.

Fuming sulphuric acid.

Furs utilizable for clothing suitable for use in war.

Glycerine.

Gold.

Gun mountings and their component parts.

Hair, animal, of all kinds, and tops, noils, and yarns of animal hair.

Harness and saddlery.

Harness of a distinctively military character, all kinds of.

Hemp.

Hides of cattle, buffaloes, and horses.

Horseshoes and shoeing material.

Hydrochloric acid.

Implements designed exclusively for the manufacture of munitions of

war, or for the manufacture or repair of arms or of war material for use on land or sea.

Implements for fixing and cutting barbed wire.

Iodine and its compounds.

Iron, electrolytic.

Iron, hæmatite and hæmatite iron ore.

Iron pyrites.

Kapok.

Lathes capable of being employed in the manufacture of munitions of war.

Lead and lead ore.

Leather belting, hydraulic leather, pump leather.

Leather, undressed or dressed, suitable for saddlery, harness, military boots, or military clothing.

Limbers and limber boxes and their component parts.

Lubricants.

Machines capable of being employed in the manufacture of munitions of war.

Manganese and manganese ore.

Manganese dioxide.

Maps and plans of any place within the territory of any belligerent, or within the area of military operations, on a scale of 4 miles to 1 inch or any larger scale, and reproductions on any scale, by photography or otherwise, of such maps or plans.

Materials especially adapted for use in the manufacture or repair of tyres.

Materials used in the manufacture of explosives.

Mercury.

Methyl alcohol.

Military wagons and their component parts.

Mineral oils, including benzine and motor spirit.

Molybdenum and molybdenite.

Motor vehicles of all kinds and their component parts and accessories.

Naphthalene and its mixtures and derivatives.

Nautical instruments, all kinds of.

Negotiable instruments.

Nickel and nickel ore.

Nitric acid and nitrates of all kinds.

Oils and fats, animal, fish, and vegetable, other than those capable of use as lubricants, and not including essential oils.

Oleaginous seeds, nuts, and kernels.

Oleum.

Paper money.

Paraffin wax.

Peppers.

Phenol (carbolic acid) and its mixtures and derivatives.

Phosphorus and its compounds.

Phosgene.

Potassium salts.

Powders, whether specially prepared for use in war or not.

Projectiles of all kinds and their component parts.

Prussiate of soda.

Railway materials, both fixed and rolling stock.

Ramie.

Range finders and their component parts.

Rattans.

Realizable securities.

Resinous products.

Rubber (including raw, waste, and reclaimed rubber, solutions and jellies containing rubber, or any other preparations containing rubber, balata, and gutta-percha, and the following varieties of rubber, viz, Borneo, Guayule, Jelutong, Palembang, Pontianac, and all other substances containing caoutchouc) and goods made wholly or partly or rubber.

Sabadilla seeds and preparations therefrom.

Scheelite.

Searchlights and their component parts.

Selenium.

Silver.

Skins of calves, pigs, sheep, goats, and deer.

Skins utilizable for clothing suitable for use in war.

Soap.

Sodium.

Sodium chlorate and perchlorate.

Sodium cyanide.

Solvent naphtha and its mixtures and derivatives.

Starch.

Steel containing tungsten or molybdenum.
Submarine sound signalling apparatus.
Sulphur.
Sulphur dioxide.
Sulphuric acid.
Sulphuric ether.
Tanning substances of all kinds, including quebracho wood and extracts for use in tanning.
Telegraphs, materials for.
Telephones, materials for.
Telescopes.
Tin, chloride of tin, and tin ore.
Toluol and its mixtures and derivatives.
Tools capable of being employed in the manufacture of munitions of war.
Tungsten.
Turpentine (oil and spirit).
Tyres for motor vehicles and for cycles.
Urea.
Vanadium.
Vegetable fibres and yarns made therefrom.
Vehicles of all kinds, other than motor vehicles, available for use in war, and their component parts.
Vessels, craft, and boats of all kinds.
Warships, including boats and their component parts of such a nature that they can only be used on a vessel of war.
Wireless telegraphs, materials for.
Wolframite.
Wood tar and wood-tar oil.
Wood tar and wood-tar oil.
Wool, raw, combed, or carded; wool waste; wool tops and noils, woolen or worsted yarns.
Xylol and its mixtures and derivatives.
Zinc ore.

Part III.

RESTRAINTS ON COMMERCE.

(Continuation of correspondence printed in Special Supplement, July, 1915, pp. 55–83, 101–125, 141–146, 153–155, 157–165.)

Ambassador W. H. Page to the Secretary of State.

No. 1468.] American Embassy,
London, May 20, 1915.

Sir: Referring to my cablegram No. 2129 of May 19th,[1] I have the honor to transmit herewith to the Department copy, in duplicate, of a memorandum respecting American ships and cargoes detained at British ports, which I have received from Sir Edward Grey in reply to my numerous conversations with him upon this subject, and also a copy, in duplicate, of a note verbale substantiating his memorandum.

I have, etc.,

W. H. Page.

[Inclosure.]

No. 57189/15.]

MEMORANDUM RESPECTING AMERICAN SHIPS AND CARGOES DETAINED AT BRITISH PORTS.

There is at the present moment detained in this country but one American ship, the *Joseph W. Fordney.*[2] This vessel, with a cargo of feeding stuffs consigned to E. Klingener at Malmo was brought into Kirkwall on the 8th April. She had been sighted by His Majesty's ships about ten miles from the Norwegian coast, and had thereupon endeavored, with the evident desire to evade search, to escape rapidly into Norwegian territorial waters, but without success. On the vessel's

[1] Not printed.

[2] For correspondence regarding the detention of this ship, see *infra*, pp. 151–160.

arrival at Kirkwall enquiries were at once addressed to His Majesty's Minister at Stockholm in regard to the consignee of the cargo and a reply was received to the effect that no person of the name could be identified at Malmo, though a person of the name, who resided at Gothenburg and was manager of the Gothenburg branch of the Hamburg firm of Hugo Hartwig, had stated that the consignments addressed to him on board the *Joseph W. Fordney* were intended for storage in Malmo.

2. The suspicious conduct of the vessel in endeavoring to elude His Majesty's patrols, and the known connections of the consignee of her cargo, have tended to confirm other evidence which has come to the knowledge of His Majesty's Government that the foodstuffs were in reality destined for Germany. It was accordingly decided, as the United States Ambassador was duly informed, that the cargo must be placed in the Prize Court and the vessel is at present discharging at Portishead, on the completion of which operation she will be released. His Majesty's Government feel satisfied that, in the circumstances of this case, undue interference with American interests can not with reason be imputed to them.

3. The number of neutral vessels carrying American cargoes and at present held up, is thirty-six; of these, twenty-three carry cargoes of American cotton. The United States Government are aware that, since the enforcement of the Blockade measures announced in the supplement of the London Gazette of the 12th March last, His Majesty's Government have acted, as regards shipment of American cotton, in accordance with the provisions of an arrangement arrived at in collaboration with representatives of the American cotton interests. The terms of the arrangement are as follows:

1. All cotton for which contracts of sale and freight engagements have already been made before the 2nd March is to be allowed free (or bought at contract price if stopped), provided the ship sails not later than the 31st March.

2. Similar treatment is to be accorded to all cotton insured before the 2nd March, provided it is put on board not later than the 16th March.

3. All shipments of cotton claiming the above protection are to be declared before sailing, and documents produced to and certificates obtained from consular officers or other authority fixed by the Government.

4. In accepting this scheme, which, it may be noted, applies to shipments of cotton for neutral destinations only, the principal representative of the American cotton interests described it to His Majesty's Ambas-

sador at Washington as conceding all that the American interests could properly ask. It was never suggested that vessels or cargoes with an enemy destination should be allowed to proceed. His Majesty's Government were, moreover, given to understand that the provisions of the arrangement were acceptable to the United States Government.

5. As the United States Ambassador has already been informed, it is intended shortly to furnish a statement showing precisely what cargoes, or what portions of cargoes, His Majesty's Government have dealt with under the above arrangement, and, as regards those which they have decided to purchase at contract price, under the terms of paragraph 1 of the arrangement, direct discussions have already been opened with special representatives of the American parties interested in London.

6. A considerable portion of the cotton has already been sold, and arrangements are being made for handing over the proceeds to the parties entitled to receive the total value as a first installment of the completed transaction. It is obvious that all these arrangements require some time for adjustment. Meanwhile it is not believed that the original owners can, as appears to be apprehended, be suffering acutely by the delay of full payment. It is to be presumed that, in accordance with the customs of trade, the owners drew bills for the value of their goods before or at the time of shipment, and, if such bills have been negotiated in the usual way, it is difficult to understand why the drawers should be put to inconvenience on this account, at least before the date when the bills fall due.

7. On an impartial review of the facts it will, His Majesty's Government feel sure, be admitted that no arbitrary interference with American interests has, in regard to these cargoes, occurred, seeing that His Majesty's Government have acted throughout in conformity with the terms of an arrangement agreeable to the interests concerned, and that United States citizens will suffer no pecuniary loss.

8. As regards other American cargoes or portions of cargoes which have been placed in the Prize Court, His Majesty's Government only resort to this measure in cases where either the goods concerned are contraband, or there is evidence that, although ostensibly consigned to a person in a neutral country, they are in reality destined for the enemy, in contravention of the rules of blockade. The right to submit such cases to the public investigation of a judicial tribunal is one which His Majesty's Government can not forego, and they feel convinced that

enlightened opinion in the United States of America can not adversely criticise their course of action in this respect.

9. It is true that a number of these cases have been pending in the Prize Court for some time. This is notably the case in regard to certain vessels carrying large shipments of meat and lard, ostensibly consigned to Scandinavian ports. The United States Government are, however, no doubt aware that much of the delay involved in these instances is due to the fact that negotiations have been carried on for many weeks with a representative of the principal American meat packers for an arrangement designed to limit the importation into neutral countries adjacent to Germany to the quantities actually required in those countries for bona fide home consumption. The American meat packers have demanded, as a part of the settlement to be agreed upon, that His Majesty's Government should buy the cargoes of the several ships now held up in the Prize Court. Hence the delay in bringing these cases to adjudication. It may be added that the ill-success which has so far attended these negotiations is due not to a refusal of His Majesty's Government to entertain the idea of purchase, but to the uncompromising attitude taken up by the American negotiator, who appears unwilling even to discuss any modification of his own demands as regards price. This stage having now been reached, His Majesty's Government have decided to go on with the Prize Court proceedings in these cases, and it is not expected that a decision will be much longer delayed.

10. It may finally be pointed out that the repeated complaints as to the great injury suffered generally by American trade in consequence of the interference due to British naval measures derives little substance from the published American trade returns. A table of figures taken from these returns, and showing the amount of recent American trade with Germany and with neutral countries supplying Germany, is annexed hereto. It certainly tends to disprove any contention that American trade with neutral countries has recently suffered. It will be seen that whereas American exports to Germany and Austria in February, 1915, fell twenty-one million five hundred thousand dollars, as compared with the same month in 1914, American exports to Scandinavia, Holland, and Italy rose by the enormous figure of sixty-one million two hundred thousand dollars.

11. Similar figures for the month of March have not yet reached His Majesty's Government, but they have received statistics for that month of the value of exports and imports through New York as issued by the

collector of that port, and, while pointing out that the large increase in value of exports in 1915 compared with those of 1914 (as shown in the tables annexed), they desire especially to call attention to a separate statement indicating the increase in amount of the exports to Scandinavian and Dutch ports of two commodities only, bacon and lard. These figures show that as against one thousand two hundred and fifty-three boxes of bacon and nine thousand one hundred and eighty-six tierces of lard exported to the ports noted in the above countries in March, 1914, there were exported in March, 1915, thirty-two thousand two hundred and twenty-two boxes of bacon and ninety-five thousand six hundred and seventy-six tierces of lard.

12. His Majesty's Government consider that the abnormal increase of supplies imported by neutral countries as shown in these statistics alone justifies their assumption as to the ultimate destination of many items of cargo consigned to one or other of the countries in question on vessels which they have detained, but they would call attention to the fact that it is only when they believed themselves to be in possession of conclusive evidence of the enemy destination of the cargo that they have seized such cargo, and that American interests, as for instance in the case of cotton, have received especially sympathetic consideration.

[Inclosure 2.]

No. 57189/15.] FOREIGN OFFICE,
May 15, 1915.

Sir Edward Grey presents his compliments to the United States Ambassador, and with reference to the Foreign Office memorandum No. 57189 of May 14th has the honor to inform His Excellency that the opening statement, to the effect that only one American vessel was then detained in the United Kingdom, did not embrace cotton ships, which are dealt with in subsequent paragraphs of the memorandum.

There were, as His Excellency is aware, two American cotton ships, the *Southerner* and the *Carolyn*, then detained in the United Kingdom.

Sir E. Grey considers that the memorandum of May 14th was not sufficiently explicit on this point, in regard to which he wishes to leave no room for misunderstanding.

Ambassador Page to the British Secretary of State for Foreign Affairs.

[Memorandum.]

AMERICAN EMBASSY,
London, June 3, 1915.

The American Ambassador presents his compliments to His Majesty's Secretary of State for Foreign Affairs and has the honor to acquaint him that he is in receipt of a communication from the consul general in London, in which he requests that he may be informed regarding the amount of raw cocoa and preparations of cocoa exported from Great Britain to Holland, Denmark, Sweden, Norway, and Italy during the four months ending April 30, 1915, as compared with the same period of 1914 and 1913. Mr. Page ventures to hope that should no inconvenience be found in so doing, Sir Edward Grey may be so good as to cause him to be furnished with the desired information in this connection.

Note Verbale from the British Embassy.

BRITISH EMBASSY,
Washington, August 6, 1915.

Comments have reached His Majesty's Government from various quarters that a misapprehension seems to have arisen with regard to the British note of July 31 concerning the steamer *Neches*,[1] which it was asserted had been interpreted as stating that the cargo of the vessel had been seized as a reprisal measure against Germany's submarine policy.

Sir Edward Grey has requested me to explain that the misunderstanding arises no doubt from the brevity of the note. The note admits no illegality of procedure. The seizure was not meant in the nature of a reprisal, but was based solely on the British contention of the absolute legality of the Orders in Council as explained in the note of July 23, to which the *Neches* note refers.

It is also explained that in stating that the British Government does not yet know what steps neutrals have taken against German submarine policy, no reference was intended to the action of the United States

[1] Printed in Special Supplement, July, 1915, p. 162.

Government, but to other neutrals, who have lost more ships than the United States but of whose action nothing is known by the British Government.

It should be further explained that in making reference to the German submarine policy the British Government only desired to point out that from its standpoint it was hardly just or reasonable that it should be asked by neutrals to abandon any of its legal rights while Germany commits illegalities both on Great Britain and on neutrals, though it is admitted and regretted that interference with German trade, however legal, may be inconvenient to neutrals.

The British Secretary of State for Foreign Affairs to Ambassador Page.

FOREIGN OFFICE,
August 13, 1915.

YOUR EXCELLENCY: I have the honour to refer to the memorandum which you were good enough to communicate on the 3d June last, in which you informed me of the desire of the United States consul general in London to be furnished with figures showing the amount of raw cocoa and preparations of cocoa exported from Great Britain to Holland, Denmark, Sweden, Norway, and Italy during the four months ending April 30, 1915, as compared with the same period in 1914 and 1913. Your Excellency will remember that I had the honour to communicate to you tabular statement of these figures on the 16th ultimo.

His Majesty's ambassador at Washington reported on the 22d July that the Acting Councillor of the State Department had referred in conversation to the unfavourable impression created at Washington by reports as to the increase in British exports to northern European neutral ports since the outbreak of war received from Mr. Consul General Skinner, these reports having given figures showing increases in the British exports of some commodities to those countries. I am therefore communicating to Sir C. Spring-Rice statistics showing what the exports of the United Kingdom were in comparison with those of the United States during the first five months of this year, in order that this impression may be removed as soon as possible; but as I hear that statements no doubt inspired by German agents are being circulated in America to the effect that His Majesty's Government are trying to

stop the legitimate trade of the United States with neutral countries in order to capture the trade for the British Empire, and are therefore allowing goods to be exported from the United Kingdom which they have not allowed to be imported into the same countries from the United States, I think it well to inform Your Excellency immediately of the true state of the case, and with this view to invite attention to the following data and figures:

The increased reëxport of cotton from the United Kingdom to Norway, Sweden, Denmark, and the Netherlands during the months of January to May, 1915, as compared with the same period in 1914, amounted to 503,995 centals of 100 pounds. The United States exported to the four countries mentioned during this period in 1915 as much as 3,353,638 centals, as compared with 204,177 centals during January to May, 1914, an increase of 3,149,461 centals, or six times the increase in the export of cotton from the United Kingdom.

The above figures for the United Kingdom are taken from the official customs returns; those for the United States have been carefully compiled by the War Trade Department from the manifests of those vessels which actually arrived with cargo from the United States in Scandinavian and Dutch ports during the five months, February to June, 1915, as compared with five-twelfths of the total recorded exports from the United States to those countries in the year ended June 30, 1914. It has been necessary to adopt this method, as the "Monthly Summary of Foreign Commerce," issued by the United States Government, gives very few details with regard to American trade with those countries. It is evident that some shipments must have taken place from the United States to Scandinavia and the Netherlands which could not come within the scope of even the most circumstantial compilation of statistics drawn up from the manifests of examined ships alone, and I would therefore lay particular stress on the fact that the figures thus obtained by the War Trade Department are necessarily understatements of the total amounts actually shipped. But even from the figures thus obtained it is possible to show conclusively how much greater the increases in the American exports to Scandinavian countries and the Netherlands have been than those of Great Britain during the first five months of this year, not only in the case of cotton but in that of almost every other important commodity.

Reëxports of rubber from the United Kingdom to Scandinavia and the Netherlands declined from 17,727 centals of 100 pounds in January–

May, 1914, to 16,693 centals in January–May, 1915; on the other hand exports of rubber from the United States to the same destinations increased from 1,579 centals to 5,040 centals. Larger reëxports of rubber to the United States from this country have indeed taken place, but all other reëxports of rubber have declined during this period, as the following figures show:

United Kingdom—Reëxports of rubber

	Centals of 100 pounds		
	Jan.–May, 1914	Jan.–May, 1915	Increase in 1915 over 1914
To all destinations	553,864	667,509	*113,645
Of which to United States	248,435	418,619	†170,184

It will therefore be seen that this country has actually been supplying more rubber to the United States at the expense of other neutrals, while American exporters have taken advantage of this to ship increased quantities of rubber to Scandinavia and the Netherlands.

In the case of lubricating oils, the increase of United Kingdom exports to Scandinavia and Holland was 703,370 gallons; the increase of the United States exports during the same five months was 3,857,593 gallons, being five times as great as the British increase.

The increase in the reëxports of unmanufactured tobacco from the United Kingdom to the same countries and over the same period was 2,937,244 pounds; the corresponding United States increase was 6,081,848 pounds. The British increase is mainly due to the diversion of tobacco grown in the British Dominions from Continental to United Kingdom ports. The reëxports of manufactured tobacco from the United Kingdom have actually declined, while exports of this commodity from the United States to Scandinavia and the Netherlands have hitherto been relatively insignificant. It is therefore altogether improbable that the United States can have lost trade in tobacco in consequence of the measures taken by His Majesty's Government.

United Kingdom reëxports of cocoa have risen from 2,976,143 pounds in January May, 1914, to 14,504,013 pounds in January May, 1915,

* Or 20.5 per cent.

† Or 68.6 per cent.

an increase, in round numbers, of 11,500,000. Exports from the United States for the same months have risen from 12,300 pounds in 1914 to 16,016,000 pounds in 1915, an increase of 16,000,000. These figures speak for themselves.

In the first five months of 1914 the United Kingdom reëxports of coffee to the same countries amounted to 80,407 hundredweight, and the exports from the United States to 7,376 hundredweight. In the corresponding five months of 1915 the United Kingdom reëxports were 263,488 hundredweight, while the imports from the United States were 285,760 hundredweight, showing that the United States exports, which were formerly much less, are now greater than those of the United Kingdom.

In the case of rice, the increased reëxport from the United Kingdom, which amounted to 193,458 hundredweight for the period under review, was entirely due to the diversion to the United Kingdom ports of the large trade in Indian rice formerly carried on through Hamburg and other Continental ports. The exports from the United States have increased from 262 hundredweight in January–May, 1914, to 27,800 hundredweight in January–May, 1915, an increase of 27,538 hundredweight.

The United Kingdom increase in the export of wheat flour to Scandinavia and the Netherlands during January–May, 1915, compared with 1914, was 47,045 hundredweight; the United States increase was 2,555,593 hundredweight for the same period.

For the same period the United Kingdom increase in the export of barley to Scandinavia and the Netherlands was 249,512 hundredweight; the United States increase, 2,016,892 hundredweight.

I could point to many other instances of similar proportionate increases in the exports of the United States to Scandinavia and the Netherlands as compared with exports to the same countries from the United Kingdom during the last five months. In respect to the great majority of articles for which figures of United States trade can be given the increases in this trade are greater, and in some cases very considerably greater, than the increases in the United Kingdom trade.

In many cases increases in United Kingdom reëxports are due to the fact that the products of British Indian and Colonial products which formerly went direct to Continental ports, such as Hamburg, Rotterdam, or Copenhagen, are now sent to the United Kingdom and thence distributed to old customers in Scandinavia and the Netherlands.

Among such may be mentioned pepper, cinnamon, and other spices (largely the product of the British East Indies), Indian tea, palm kernels (mainly from British West Africa), and copra (mainly from the Straits Settlements and Australia). The direct trade of the British overseas Dominions with the port of Hamburg alone is very great in normal times.

In many other instances our reëxport trade for the first five months of this year shows a large decline. The following statement gives a few examples of such decreases in reëxports from the United Kingdom to all destinations.

	1915 (5 months).	1914 (5 months).
Tallow, unrefined....cwt..	190,179	378,926
Quicksilver....lbs..	258,075	784,650
Machinery:		
Agricultural....tons..	163	8,396
Sewing machines....No..	853	6,683
Cotton waste....lbs..	205,960	469,235
Carpet and carpet rugs....sq. yds..	58,161	184,105
Silk, thrown....lbs..	656	15,582
Beef, chilled....cwt..	3,262	274,151
Meat, preserved....do...	19,531	61,000
Butter....do...	19,253	66,340
Bananas....bunches..	127,217	258,310
Hemp....tons..	19,399	25,673
Palm oil....cwt..	177,529	382,513
Gas oil....galls..	9,800	241,724
Fuel oil....do ...	169,884	515,170

Everything in the statistics I have quoted tends to show that the mercantile community of the United States has made profits proportionately equal to or greater than those of the mercantile community of Great Britain in respect to all those demands which have inevitably arisen in Scandinavia and the Netherlands as a consequence of the closing of German ports. The total volume of the trade of the United States with these countries has increased 300 per cent, as Your Excellency will see from the accompanying table, taken from the United States official "Monthly Summary of Foreign Commerce," which shows the comparative value of the total exports of the United States to Scandinavian countries and the Netherlands during the first five months of

1914 and 1915. The value of the total increase in those exports during this period amounted to $145,658,000.

I have, etc.,

E. GREY.

VALUE OF UNITED STATES EXPORTS

To—	In January–May, 1914.	In January–May, 1915.	Increase in 1915 over 1914.
Norway	$3,679,000	$22,478,000	$18,799,000
Sweden	5,875,000	52,217,000	46,342,000
Denmark	6,421,000	41,321,000	34,900,000
Netherlands	44,114,000	89,731,000	45,617,000
Total	60,089,000	205,747,000	145,658,000

Memorandum from the British Embassy.[1]

BRITISH EMBASSY,
Washington.

It has been frequently suggested and sometimes actually asserted that the seizure of the cargoes consigned by the meat packers of Chicago to Copenhagen and other Scandinavian ports in the four ships which were the subject of the recent proceedings in the prize court[2] and in the other ships in regard to which these negotiations have taken place, was a seizure effected under orders in council the validity of which is disputed by the Government of the United States, the implication being that in some way these cargoes were seized under the order in council of March 11, 1915. It seems hardly necessary to point out that this was not so. The cargoes were seized for the greater part long before March, 1915, and the ground for the seizure was that they were conditional contraband destined from the first by the packers who shipped them largely for the use of the armies, navies, and Government departments of Germany and Austria, and only sent to neutral ports with the object of concealing their true destination. This is a ground for seizure which has been asserted and upheld by none more strongly than American courts and the leading American authorities on international law for

[1] Received at the Department of State October 12, 1915.

[2] The text of the decision of the British Prize Court in these cases is printed in the American Journal of International Law for October, 1915 (Vol. 9), p. 979.

over 50 years. That foodstuffs on a ship bound for enemy territory may be seized and condemned if there can be shown to be (in the words of Lord Stowell) a "highly probable" destination for military or naval use has long been a universally recognized and admitted principle of international law, and it was the American courts which first insisted upon the further principle that, if that destination is shown it does not matter that the goods were found upon a ship sailing to a neutral port. In the application of this doctrine—the doctrine of continuous voyage—the British Government had acquiesced at the time of the American Civil War, and the circumstances of modern warfare, the development of international trade and the increase in the rapidity of and the facilities for, transport both by land and sea have made the doctrine the more reasonable and indeed essential, if a belligerent is to be allowed to exercise at all his undoubted right of interrupting the supply of foodstuffs to his enemy's military and naval forces.

At the outbreak of the present war and up to the time when the German methods of warfare had by their reckless disregard of all the principles of law hitherto recognized and all the dictates of ordinary humanity made it necessary to adopt by way of retaliation measures calculated to cut off all German trade it was open to neutrals to continue to supply the civil population of that country openly by consignments to named merchants and dealers in Germany, and if that course had been adopted the case would have assumed a very different complexion and it would then have been, no doubt, for the British Government to establish that the consignees in fact were known to be engaged in supplying the German Government. This, however, was not the course adopted by the Chicago packers. Vast quantities of lard, meat, bacon, and oils, far in excess of any possible requirements of the Scandinavian countries, were shipped to Copenhagen in part to named consignees but for the greater part to the packers' own agents or their order, and it was from the first claimed that all these consignments were shipped on, or with a view to, bona fide sales to neutrals. From the evidence, however, of cablegrams and letters in the possession of the British Government which were ultimately produced in court, it was clear that the packers' agents in these neutral countries and also several of the consignees who purported to be genuine neutral buyers were merely persons engaged by the packers on commission, or sent by the packers from their German branches, for the purpose of insuring the immediate transit of these consignments to Germany. The whole scheme was disclosed in a series of

letters from a Hamburg correspondent of Messrs. Cudahy, who was obviously in touch with the representatives in Hamburg and Rotterdam of practically all the packers. Agents and managers were sent from Germany to Copenhagen where they established themselves in hotels; two of these agents formed themselves into a Danish Importing Company who had an enormous trade: the importance was emphasized of using the names of persons already in the provision trade; neutrals were induced, for a consideration, to lend their names as pretended consignees; careful instructions were given as to the names to be inserted in the bills of lading and other documents; and these agents kept the packers informed from time to time as to the prohibitions against export in the various neutral countries and as to the ports (including Genoa) to which it was most desirable to ship the goods. Some agents were found, on special instructions, to be moving about from place to place in Europe; and in one case the name of a German agent was in the cables changed to the innocent name of "Davis" when it was discovered that the original name was regarded as suspicious by the British censorship. The telegram showed orders given from Rotterdam for delivery to Copenhagen and Scandinavian ports, from Copenhagen for delivery to Swedish and Norwegian ports, and from Rotterdam and Copenhagen for delivery to Genoa; so that it obviously mattered little what the port of delivery was so long as it was conveniently situated for transit to Germany. Offers were, on special instructions, made in German currency, for the convenience, obviously, of German buyers. There were clear indications of consultation with the packers' German houses as to the ports to which goods should be sent. A special cable code was invented as to which, however, nothing more was disclosed than that "Arnhem" meant "ship to Copenhagen." Special and hastily devised arrangements were made for payment by the establishing of large credits in Scandinavian banks, arrangements which from the urgency of the cables connected with them were obviously no part of the ordinary course of the packers' business, and in some cases there were payments which clearly came directly or indirectly from Germany and from the Deutsche Bank. Indeed, it was stated to Messrs. Cudahy by their Hamburg correspondent that German bankers had evidently accumulated large balances in New York, Rotterdam, and Copenhagen; and as to the object of this there could be no doubt. There were indications sometimes of insurance of the goods in Germany, sometimes of precautions taken to insure in other than German companies; but with a few unimportant exceptions no insurance policies

were produced. The Holland American Line was seen to be refusing the packers' shipments, for it required a guarantee against reëxport to Germany which they could not give; and at an early stage the line was approached with a proposal that it should for the convenience and greater safety of the packers, transfer some of its vessels to the American flag; a proposal to which it declined to accede. The consequence was that a special line was formed to engage in this trade. In spite of all this the pretense was stoutly kept up to the end that the whole business was bona fide neutral trade and that the packers had no interest beyond that of selling and consigning to neutral buyers, and it was not till the actual trial that the admission was made on behalf of some of them that a large part of the goods was probably intended to go through to Germany. And there were strong indications that it was not merely a civilian German destination which was contemplated. The German ports to which the goods were going, Hamburg, Lubeck, and Stettin, were all military or naval depots and headquarters of troops; the fat bacon, besides being of value for army rations was, as the British Government were informed, in such demand in Germany as being the raw material of glycerine, which is the most important constituent of explosives. The meat was packed suitably for Army use, and indeed the case of the smoked bacon and Armour's tinned boiled beef was of the kind supplied or offered to the British Army, and on the case put forward by the packers it was necessary to imagine that while engaged in supplying the armies of Great Britain, France, and Russia they had by some inexplicable oversight omitted to turn their attention to the opportunities for enormous profits offered by Germany and Austria. Messrs. Cudahy's Hamburg correspondent expressly stated with regard to the cargo on the four ships whose cases were tried that this information was that most of the goods had long ago been sold to Germany. He reported that Messrs. Morris's German agent was sceptical about the release of the *Alfred Nobel* cargo as it was "too open faced a case of the lard being intended for Germany" and that apparently this same German agent had suggested that the packers should make "a big noise" in the American press, and the picture drawn in these frank communications was one of German agents eagerly awaiting the release of their goods and calculating the prospects of their being promptly passed through Danish and Scandinavian ports to Germany. Yet in spite of all this the claim was put forward and firmly maintained to the end that everything that had been done was perfectly bona fide trade,

but documents which could easily have been produced had this been true were never forthcoming.

With perhaps a few minor exceptions the packers produced no contracts, no invoices, no insurance policies, and no checks or other proof of sale or payments; their affidavits were in the most general terms and were put in at the very last moment, some of them even after the trial had begun, and no attempt was made by any written or other evidence to explain away the damning evidence of the telegrams and letters disclosed by the Crown. The inference was clear and irresistible that no such attempt could be made, and that any written evidence there was would have merely confirmed the strong suspicion, amounting to a practical certainty, that the whole of the operations of shipment to Copenhagen and other neutral ports were a mere mask to cover a determined effort to transmit vast quantities of supplies through to the German and Austrian armies. It is claimed, therefore, that the seizure of all the cargoes was amply justified by the facts known at the time, the facts subsequently discovered and disclosed and the conduct of the packers throughout, and that the British Government required to call in aid nothing but the long-recognized and elementary principles of international law.

The Secretary of State to Ambassador W. H. Page.

DEPARTMENT OF STATE,
Washington, October 21, 1915.

SIR: I desire that you present a note to Sir Edward Grey in the sense of the following:

(1) The Government of the United States has given careful consideration to Your Excellency's notes of January 7,[1] February 10,[1] June 22,[1] July 23,[1] July 31 (2),[1] August 13,[2] and to a note verbale of the British Embassy of August 6,[2] relating to restrictions upon American commerce by certain measures adopted by the British Government during the present war. This Government has delayed answering the earlier of these notes in the hope that the announced purpose of His Majesty's Government "to exercise their belligerent rights with every possible

[1] Special Supplement, July, 1915, pp. 60, 65, 141, 157, 162, 163.
[2] *Supra*, pp. 63, 64.

consideration for the interest of neutrals" and their intention of "removing all causes of avoidable delay in dealing with American cargoes" and of causing "the least possible amount of inconvenience to persons engaged in legitimate trade," as well as their "assurances to the United States Government that they would make it their first aim to minimize the inconveniences" resulting from the "measures taken by the Allied Governments," would in practice not unjustifiably infringe upon the neutral rights of American citizens engaged in trade and commerce. It is, therefore, a matter of regret that this hope has not been realized, but, that, on the contrary, interferences with American ships and cargoes destined in good faith to neutral ports and lawfully entitled to proceed have become increasingly vexatious, causing American shipowners and American merchants to complain to this Government of the failure to take steps to prevent an exercise of belligerent power in contravention of their just rights. As the measures complained of proceed directly from orders issued by the British Government, are executed by British authorities, and arouse a reasonable apprehension that, if not resisted, they may be carried to an extent even more injurious to American interests, this Government directs the attention of His Majesty's Government to the following considerations:

(2) Without commenting upon the statistics presented by His Majesty's Government to show that the export trade of the United States has increased in volume since the war began further than to point out that the comparative values fail to take into account the increased price of commodities resulting from a state of war or to make any allowance for the diminution in the volume of trade which the neutral countries in Europe previously had with the nations at war, a diminution which compelled them to buy in other markets, I will pass directly to the matters which constitute the specific complaints of this Government.

(3) *First.* The detentions of American vessels and cargoes which have taken place since the opening of hostilities have, it is presumed, been pursuant to the enforcement of the Orders in Council, which were issued on August 20 and October 29, 1914, and March 11, 1915, and relate to contraband traffic and to the interception of trade to and from Germany and Austria-Hungary. In practice these detentions have not been uniformly based on proofs obtained at the time of seizure, but many vessels have been detained while search was made for evidence of the contraband character of cargoes or of an intention to evade the non-intercourse measures of Great Britain. The question, consequently, has

been one of evidence to support a belief of—in many cases a bare suspicion of—enemy destination, or occasionally of enemy origin of the goods involved. Whether this evidence should be obtained by search at sea before the vessel or cargo is taken into port, and what the character of the evidence should be, which is necessary to justify the detention, are the points to which I direct Your Excellency's attention.

(4) In regard to search at sea, an examination of the instructions issued to naval commanders of the United States, Great Britain, Russia, Japan, Spain, Germany, and France from 1888 to the beginning of the present war shows that search in port was not contemplated by the Government of any of these countries. On the contrary, the context of the respective instructions shows that search at sea was the procedure expected to be followed by the commanders. All of these instructions impress upon the naval officers the necessity of acting with the utmost moderation—and in some cases commanders are specifically instructed—in exercising the right of visit and search, to avoid undue deviation of the vessel from her course.

(5) An examination of the opinions of the most eminent text writers on the laws of nations shows that they give practically no consideration to the question of search in port, outside of examination in the course of regular prize court proceedings.

(6) The assertion by His Majesty's Government that the position of the United States in relation to search at sea is inconsistent with its practice during the American Civil War is based upon a misconception. Irregularities there may have been at the beginning of that war, but a careful search of the records of this Government as to the practice of its commanders shows conclusively that there were no instances when vessels were brought into port for search prior to instituting prize court proceedings, or that captures were made upon other grounds than, in the words of the American note of November 7, 1914, "evidence found on the ship under investigation and not upon circumstances ascertained from external sources." A copy of the instruction issued to American naval officers on August 18, 1862, for their guidance during the Civil War, is appended.

(7) The British contention that "modern conditions" justify bringing vessels into port for search is based upon the size and seaworthiness of modern carriers of commerce and the difficulty of uncovering the real transaction in the intricate trade operations of the present day. It is believed that commercial transactions of the present time, hampered as

they are by censorship of telegraph and postal communication on the part of belligerents, are essentially no more complex and disguised than in the wars of recent years, during which the practice of obtaining evidence in port to determine whether a vessel should be held for prize proceedings was not adopted. The effect of the size and seaworthiness of merchant vessels upon their search at sea has been submitted to a board of naval experts, which reports that—

> At no period in history has it been considered necessary to remove every package of a ship's cargo to establish the character and nature of her trade or the service on which she is bound, nor is such removal necessary. * * *
>
> The facilities for boarding and inspection of modern ships are in fact greater than in former times, and no difference, so far as the necessities of the case are concerned, can be seen between the search of a ship of a thousand tons and one of twenty thousand tons—except possibly a difference in time—for the purpose of establishing fully the character of her cargo and the nature of her service and destination. * * * This method would be a direct aid to the belligerents concerned in that it would release a belligerent vessel overhauling the neutral from its duty of search and set it free for further belligerent operations.

(8) Turning to the character and sufficiency of the evidence of the contraband nature of shipments to warrant the detention of a suspected vessel or cargo for prize proceedings, it will be recalled that when a vessel is brought in for adjudication courts of prize have heretofore been bound by well-established and long-settled practice to consider at the first hearing only the ship's papers and documents, and the goods found on board, together with the written replies of the officers and seamen to standing interrogatories taken under oath, alone and separately, as soon as possible and without communication with or instruction by counsel, in order to avoid possibility of corruption and fraud.

(9) Additional evidence was not allowed to be introduced except upon an order of the court for "further proof," and then only after the cause had been fully heard upon the facts already in evidence or when this evidence furnished a ground for prosecuting the inquiry further. This was the practice of the United States courts during the War of 1812, the American Civil War, and the Spanish-American War, as is evidenced by the reported decisions of those courts, and has been the practice of the British prize courts for over a century. This practice has been changed by the British prize court rules adopted for the present war by the Order in Council of August 5. Under these new rules there is no longer a "first hearing" on the evidence derived from the ship, and the prize

court is no longer precluded from receiving extrinsic evidence for which a suggestion has not been laid in the preparatory evidence. The result is, as pointed out above, that innocent vessels or cargoes are now seized and detained on mere suspicion while efforts are made to obtain evidence from extraneous sources to justify the detention and the commencement of prize proceedings. The effect of this new procedure is to subject traders to risk of loss, delay, and expense so great and so burdensome as practically to destroy much of the export trade of the United States to neutral countries of Europe.

(10) In order to place the responsibility for the delays of vessels and cargoes upon American claimants, the Order in Council of October 29, 1914, as pointed out in the British note of February 10, seeks to place the burden of proof as to the noncontraband character of the goods upon the claimant in cases where the goods are consigned "to order" or the consignee is not named or the consignee is within enemy territory. Without admitting that the *onus probandi* can rightfully be made to rest upon the claimant in these cases, it is sufficient for the purposes of this note to point out that the three classes of cases indicated in the Order in Council of October 29 apply to only a few of the many seizures or detentions which have actually been made by British authorities.

(11) The British contention that in the American Civil War the captor was allowed to establish enemy destination by "all the evidence at his disposal," citing the *Bermuda* case (3 Wallace, 515), is not borne out by the facts of that case. The case of the *Bermuda* was one of "further proof," a proceeding not to determine whether the vessel should be detained and placed in a prize court, but whether the vessel, having been placed in prize court, should be restored or condemned. The same ruling was made in the case of the *Sir William Peel* (5 Wallace, 517). These cases, therefore, can not be properly cited as supporting the course of a British captor in taking a vessel into port, there to obtain extrinsic evidence to justify him in detaining the vessel for prize proceedings.

(12) The further contention that the greatly increased imports of neutral countries, adjoining Great Britain's enemies, raise a presumption that certain commodities, such as cotton, rubber, and others more or less useful for military purposes, though destined for those countries, are intended for reëxportation to the belligerents who can not import them directly, and that this fact justifies the detention for the purpose of examination of all vessels bound for the ports of those neutral coun-

tries, notwithstanding the fact that most of the articles of trade have been placed on the embargo lists of those countries, can not be accepted as laying down a just or legal rule of evidence. Such a presumption is too remote from the facts and offers too great opportunity for abuse by the belligerent, who could, if the rule were adopted, entirely ignore neutral rights on the high seas and prey with impunity upon neutral commerce. To such a rule of legal presumption this Government can not accede, as it is opposed to those fundamental principles of justice which are the foundation of the jurisprudence of the United States and Great Britain.

(13) Before passing from the discussion of this contention as to the presumption raised by increased importations to neutral countries, this Government directs attention to the fact that His Majesty's Government admit that the British exports to those countries have also materially increased since the present war began. Thus Great Britain concededly shares in creating a condition which is relied upon as a sufficient ground to justify the interception of American goods destined to neutral European ports. If British exports to those ports should be still further increased, it is obvious that, under the rule of evidence contended for by the British Government, the presumption of enemy destination could be applied to a greater number of American cargoes, and American trade would suffer to the extent that British trade benefited by the increase. Great Britain can not expect the United States to submit to such manifest injustice or to permit the rights of its citizens to be so seriously impaired.

(14) When goods are clearly intended to become incorporated in the mass of merchandise for sale in a neutral country, it is an unwarranted and inquisitorial proceeding to detain shipments for examination as to whether those goods are ultimately destined for the enemy's country or use. Whatever may be the conjectural conclusions to be drawn from trade statistics, which, when stated by value, are of uncertain evidence as to quantity, the United States maintains the right to sell goods into the general stock of a neutral country, and denounces as illegal and unjustifiable any attempt of a belligerent to interfere with that right on the ground that it suspects that the previous supply of such goods in the neutral country, which the imports renew or replace, has been sold to an enemy. That is a matter with which the neutral vendor has no concern and which can in no way affect his rights of trade. Moreover, even if goods listed as conditional contraband are destined

to an enemy country through a neutral country, that fact is not in itself sufficient to justify their seizure.

(15) In view of these considerations, the United States, reiterating its position in this matter, has no other course but to contest seizures of vessels at sea upon conjectural suspicion and the practice of bringing them into port for the purpose, by search or otherwise, of obtaining evidence, for the purpose of justifying prize proceedings, of the carriage of contraband or of breaches of the Order in Council of March 11. Relying upon the regard of the British Government for the principles of justice so frequently and uniformly manifested prior to the present war, this Government anticipates that the British Government will instruct their officers to refrain from these vexations and illegal practices.

(16) *Second.* The Government of the United States further desires to direct particular attention to the so-called "blockade" measures imposed by the Order in Council of March 11. The British note of July 23, 1915, appears to confirm the intention indicated in the note of March 15, 1915, to establish a blockade so extensive as to prohibit trade with Germany or Austria-Hungary, even through the ports of neutral countries adjacent to them. Great Britain, however, admits that it should not, and gives assurances that it will not, interfere with trade with the countries contiguous to the territories of the enemies of Great Britain. Nevertheless, after over six months' application of the "blockade" order, the experience of American citizens has convinced the Government of the United States that Great Britain has been unsuccessful in her efforts to distinguish between enemy and neutral trade. Arrangements have been made to create in these neutral countries special consignees, or consignment corporations, with power to refuse shipments and to determine when the state of the country's resources requires the importation of new commodities. American commercial interests are hampered by the intricacies of these arrangements, and many American citizens justly complain that their *bona fide* trade with neutral countries is greatly reduced as a consequence, while others assert that their neutral trade, which amounted annually to a large sum, has been entirely interrupted.

(17) It makes this practice even more harassing to neutral traders that the British authorities require a consignor to prove that his shipments are not bound to an enemy of Great Britain, even when the articles are on the embargo list of the neutral country to which they are destined, and that notwithstanding the assertion in the last Brit-

ish note that interference with such trade by a belligerent can only take place "provided, of course, that he (the belligerent) can establish" that the commerce is with the enemy.

(18) While the United States Government was at first inclined to view with leniency the British measures which were termed in the correspondence but not in the Order in Council of March 11 a "blockade," because of the assurances of the British Government that inconvenience to neutral trade would be minimized by the discretion left to the courts in the application of the Order in Council and by the instructions which it was said would be issued to the administrative and other authorities having to do with the execution of the so-called "blockade" measures, this Government is now forced to the realization that its expectations, which were fully set forth in its note of March 30, were based on a misconception of the intentions of the British Government. Desiring to avoid controversy and in the expectation that the administration of the Order in Council would conform to the established rules of international law, this Government has until now reserved the question of the actual validity of the Order in Council of March 11, in so far as it is considered by the Government of Great Britain to establish a blockade within the meaning of that term as understood in the law and the practice of nations; but in the circumstances now developed it feels that it can no longer permit the validity of the alleged blockade to remain unchallenged.

(19) The Declaration of Paris in 1856, which has been universally recognized as correctly stating the rule of international law as to blockade, expressly declares that "blockades, in order to be binding, must be effective; that is to say, maintained by force sufficient really to prevent access to the coast of the enemy." The effectiveness of a blockade is manifestly a question of fact. It is common knowledge that the German coasts are open to trade with the Scandinavian countries and that German naval vessels cruise both in the North Sea and the Baltic and seize and bring into German ports neutral vessels bound for Scandinavian and Danish ports. Furthermore, from the recent placing of cotton on the British list of contraband of war, it appears that the British Government have themselves been forced to the conclusion that the blockade is ineffective to prevent shipments of cotton from reaching their enemies, or else that they are doubtful as to the legality of the form of blockade which they have sought to maintain.

(20) Moreover, it is an essential principle which has been universally accepted that a blockade must apply impartially to the ships of all nations. This was set forth in the Declaration of London, is found in the prize rules of Germany, France, and Japan, and has long been admitted as a basic principle of the law of blockade. This principle, however, is not applied in the present British "blockade," for, as above indicated, German ports are notoriously open to traffic with the ports of Denmark, Norway, and Sweden. So strictly has this principle been enforced in the past that in the Crimean War the Judicial Committee of the Privy Council on appeal laid down, that if belligerents themselves trade with blockaded ports they can not be regarded as effectively blockaded. (*The Franciska*, Moore, P. C., 56.) This decision has special significance at the present time, since it is a matter of common knowledge that Great Britain exports and reexports large quantities of merchandise to Norway, Sweden, Denmark, and Holland, whose ports, so far as American commerce is concerned, she regards as blockaded. In fact, the British note of August 13 itself indicates that the British exports of many articles, such as cotton, lubricating oil, tobacco, cocoa, coffee, rice, wheat flour, barley, spices, tea, copra, etc., to these countries have greatly exceeded the British exports of the same articles for the corresponding period of 1914. The note also shows that there has been an important British trade with these countries in many other articles, such as machinery, beef, butter, cotton waste, etc.

(21) Finally, there is no better settled principle of the law of nations than that which forbids the blockade of neutral ports in time of war. The Declaration of London, though not regarded as binding upon the signatories because not ratified by them, has been expressly adopted by the British Government without modification as to blockade in the British Order in Council of October 29, 1914. Article 18 of the Declaration declares specifically that "The blockading forces must not bar access to neutral ports or coasts." This is, in the opinion of this Government, a correct statement of the universally accepted law as it exists to-day and as it existed prior to the Declaration of London. The meaning of this statement is elucidated by Mr. Renault in the report of the drafting committee upon the convention, in which he states:

> This rule has been thought necessary the better to protect the commercial interests of neutral countries; it completes article 1, according to which a blockade must not

extend beyond the ports and coasts of the enemy, which implies that, as it is an operation of war, it must not be directed against a neutral port, *in spite of the importance to a belligerent of the part played by that port in supplying his adversary.*

As the conference assembled at London upon the invitation of the British Government, it is important to recall the instruction of Sir Edward Grey to the British delegates, "setting out the views of His Majesty's Government, founded on the decisions of the British courts," in which he says:

> A blockade must be confined to the ports and coast of the enemy, but it may be instituted of one port or of several ports or of the whole of the seaboard of the enemy. It may be instituted to prevent the ingress only or egress only, or both.

He added:

> Where the ship does not intend to proceed to the blockaded port, the fact that goods on board are to be sent on by sea or by inland transport is no ground for condemnation.

In support of this announcement, Sir Edward Grey referred to several decisions of British prize courts, among which an early one of 1801 held that goods shipped from London to Emden, thence inland or by canal to Amsterdam, then blockaded by sea, were not subject to condemnation for breach of blockade. (*Jonge Pieter*, 4 C. R., 79.) This has been the rule for a century, so that it is scarcely necessary to recall that the *Matamoras* cases, well known to the British Government, support the same rule, that neutral ports may not be blockaded, though "trade with unrestricted inland commerce between such a port and the enemy's territory impairs undoubtedly, and very seriously impairs, the value of a blockade of the enemy's coast."

(22) Without mentioning the other customary elements of a regularly imposed blockade, such as notification of the particular coast line invested, the imposition of the penalty of confiscation, etc., which are lacking in the present British "blockade" policy, it need only be pointed out that, measured by the three universally conceded tests above set forth, the present British measures can not be regarded as constituting a blockade in law, in practice, or in effect.

(23) It is incumbent upon the United States Government, therefore, to give the British Government notice that the blockade, which

they claim to have instituted under the Order in Council of March 11, can not be recognized as a legal blockade by the United States.

(24) Since the Government of Great Britain has laid much emphasis on the ruling of the Supreme Court of the United States in the *Springbok* case, that goods of contraband character seized while going to the neutral port of Nassau, though actually bound for the blockaded ports of the south, were subject to condemnation, it is not inappropriate to direct attention to the British view of this case in England prior to the present war, as expressed by Sir Edward Grey in his instructions to the British delegates to the London Conference in 1908:

> It is exceedingly doubtful whether the decision of the Supreme Court was in reality meant to cover a case of blockade-running in which no question of contraband arose. Certainly if such was the intention, the decision would *pro tanto* be in conflict with the practice of the British courts. His Majesty's Government sees no reason for departing from that practice, and you should endeavor to obtain general recognition of its correctness.

It may be pointed out also that the circumstances surrounding the *Springbok* case were essentially different from those of the present day to which the rule laid down in that case is sought to be applied. When the *Springbok* case arose the ports of the Confederate States were effectively blockaded by the naval forces of the United States, though no neutral ports were closed, and a continuous voyage through a neutral port required an all-sea voyage terminating in an attempt to pass the blockading squadron.

(25) *Third.* It appears to be the position of Great Britain that if, as the United States alleges, American citizens or American interests are directly and adversely affected by the British policies of contraband and nonintercourse, resulting in interference with ships and cargoes, they should seek redress in the prize courts which the British Government have established, and that, pending the exhaustion of such legal remedies with the result of a denial of justice, the British Government "can not continue to deal through the diplomatic channels with the individual cases."

(26) It is declared that this was the course followed by the United States during the American Civil War and the Spanish War, and that both countries have supported the practice by allowing their prize court decisions, when shown to be unjust or inadequate, to be reviewed by an

international tribunal, as was done under the treaties of 1794 and 1871. The ground upon which this contention is put forth, and the results which would follow, if the course of procedure suggested were accepted, give the impression that His Majesty's Government do not rely upon its soundness or strength. Nevertheless, since it has been advanced, I can not refrain from presenting certain considerations which will show that the proposed course embodies the form rather than the substance of redress. The cases which the British Government would have claimants present to their prize courts are essentially different from cases arising wholly within the jurisdiction of a foreign country. They result from acts committed by the British naval authorities upon the high seas, where the jurisdiction over neutral vessels is acquired solely by international law. Vessels of foreign nationality, flying a neutral flag and finding their protection in the country of that flag, are seized without facts warranting a reasonable suspicion that they are destined to blockaded ports of the enemy or that their cargoes are contraband, although the possession of such facts is, by international law, essential to render a seizure legal. The officers appear to find their justification in the Orders in Council and regulations of the British Government, in spite of the fact that in many of the present cases the Orders in Council and the regulations for their enforcement are themselves complained of by claimants as contrary to international law. Yet the very courts which, it is said, are to dispense justice to dissatisfied claimants, are bound by the Orders in Council. This is unmistakably indicated to be the case in the British note of July 31, which states that—

> British prize courts "according to the ancient form of commission under which they sit are to determine cases according to the course of admiralty and the law of nations and the statutes, rules, and regulations for the time being in force in that behalf."

This principle, the note adds, has recently been announced and adhered to by the British prize court in the case of the *Zamora*. It is manifest, therefore, that, if prize courts are bound by the laws and regulations under which seizures and detentions are made, and which claimants allege are in contravention of the law of nations, those courts are powerless to pass upon the real ground of complaint or to give redress for wrongs of this nature. Nevertheless, it is seriously suggested that claimants are free to request the prize court to rule upon a claim of conflict between an Order in Council and a rule of international law. How

can a tribunal fettered in its jurisdiction and procedure by municipal enactments declare itself emancipated from their restrictions and at liberty to apply the rules of international law with freedom? The very laws and regulations which bind the court are now matters of dispute between the Government of the United States and that of His Britannic Majesty. If Great Britain followed, as she declares that she did, the course of first referring claimants to local remedies in cases arising out of American wars, it is presumed that she did so because of her knowledge or understanding that the United States had not sought to limit the jurisdiction of its courts of prize by instructions and regulations violative of the law and practice of nations, or open to such objection.

(27) The British note of February 10 states that the British Government in the American Civil War—

> in spite of remonstrances from many quarters, placed full reliance on the American prize courts to grant redress to the parties interested in cases of alleged wrongful capture by American ships of war and put forward no claim until the opportunity for redress in those courts had been exhausted.

The Government of the United States recalls that during the progress of that war Great Britain, in several instances, demanded through diplomatic channels damages for seizures and detentions of British ships alleged to have been made without legal justification. Among these may be mentioned the cases of the *Magicienne*, the *Don Jose*, the *Labuan*, and the *Saxon*. Two of these cases were, at the time the demands were made, before American prize courts for adjudication. It is understood also that during the Boer War, when British authorities seized the German vessels, the *Hertzog*, *The General*, and *The Bundesrath*, and released them without prize proceedings, compensation for damages suffered was arranged through diplomatic channels.

(28) There is, furthermore, a real and far-reaching injury for which prize courts offer no means of reparation. It is the disastrous effect of the methods of the allied Governments upon the general right of the United States to enjoy its international trade free from unusual and arbitrary limitations imposed by belligerent nations. Unwarranted delay and expense in bringing vessels into port for search and investigation upon mere suspicion has a deterrent effect upon trade ventures, however lawful they may be, which can not be adequately measured in damages. The menace of interference with legal commerce causes vessels to be withdrawn from their usual trade routes and insurance on vessels and

cargoes to be refused, while exporters for the same reason are unable or unwilling to send their goods to foreign markets and importers dare not buy commodities abroad because of fear of their illegal seizure or because they are unable to procure transportation. For such injuries there can be no remedy through the medium of courts established to adjust claims for goods detained or condemned. For specific injuries suffered by private interests prize courts, if they are free to apply the law of nations, might mete out an adequate indemnity, but for the injury to the trade of a nation by the menace of unwarranted interference with its lawful and established pursuit there can manifestly be found no remedy in the prize courts of Great Britain, to which United States citizens are referred for redress.

(29) There is another ground why American citizens can not submit their wrongs arising out of undue detentions and seizures to British prize courts for reparation which I can not pass over unnoticed. It is the manner in which British courts obtain jurisdiction of such cases. The jurisdiction over merchant vessels on the high seas is that of the nation whose flag it rightfully flies. This is a principle of the law and practice of nations fundamental to the freedom of the high seas. Municipal enactments of a belligerent power can not confer jurisdiction over or establish rules of evidence governing the legality of seizures of vessels of neutral nationality on the high seas. International law alone controls the exercise of the belligerent right to seize and detain such vessels. Municipal laws and regulations in violation of the international rights of another nation, can not be extended to the vessels of the latter on the high seas so as to justify a belligerent nation bringing them into its ports, and, having illegally brought them within its territorial jurisdiction, compelling them to submit to the domestic laws and regulations of that nation. Jurisdiction obtained in such a manner is contrary to those principles of justice and equity which all nations should respect. Such practice should invalidate any disposition by a municipal court of property thus brought before it. The Government of the United States has, therefore, viewed with surprise and concern the attempt of His Majesty's Government to confer upon the British prize courts jurisdiction by this illegal exercise of force in order that these courts may apply to vessels and cargoes of neutral nationalities, seized on the high seas, municipal laws and orders which can only rightfully be enforceable within the territorial waters of Great Britain, or against vessels of British nationality when on the high seas.

(30) In these circumstances the United States Government feels that it can not reasonably be expected to advise its citizens to seek redress before tribunals which are, in its opinion, unauthorized by the unrestricted application of international law to grant reparation, nor to refrain from presenting their claims directly to the British Government through diplomatic channels.

(31) This Government is advised that vessels and cargoes brought in for examination prior to prize proceedings are released only upon condition that costs and expenses incurred in the course of such unwarranted procedure, such as pilotage, wharfage, demurrage, harbor dues, warehouseage, unlading costs, etc., be paid by the claimants or on condition that they sign a waiver of right to bring subsequent claims against the British Government for these exactions. This Government is loath to believe that such ungenerous treatment will continue to be accorded American citizens by the Government of His Britannic Majesty, but in order that the position of the United States Government may be clearly understood, I take this opportunity to inform Your Excellency that this Government denies that the charges incident to such detentions are rightfully imposed upon innocent trade or that any waiver of indemnity exacted from American citizens under such conditions of duress can preclude them from obtaining redress through diplomatic channels or by whatever other means may be open to them.

(32) Before closing this note, in which frequent reference is made to contraband traffic and contraband articles, it is necessary, in order to avoid possible misconstruction, that it should be clearly understood by His Majesty's Government that there is no intention in this discussion to commit the Government of the United States to a policy of waiving any objections which it may entertain as to the propriety and right of the British Government to include in their list of contraband of war certain articles which have been so included. The United States Government reserves the right to make this matter the subject of a communication to His Majesty's Government at a later day.

(33) I believe it has been conclusively shown that the methods sought to be employed by Great Britain to obtain and use evidence of enemy destination of cargoes bound for neutral ports and to impose a contraband character upon such cargoes are without justification; that the blockade, upon which such methods are partly founded, is ineffective, illegal, and indefensible; that the judicial procedure offered as a means of reparation for an international injury is inherently defective for the

purpose; and that in many cases jurisdiction is asserted in violation of the law of nations. The United States, therefore, can not submit to the curtailment of its neutral rights by these measures, which are admittedly retaliatory, and therefore illegal, in conception and in nature, and intended to punish the enemies of Great Britain for alleged illegalities on their part. The United States might not be in a position to object to them if its interests and the interests of all neutrals were unaffected by them, but, being affected, it can not with complacence suffer further subordination of its rights and interests to the plea that the exceptional geographic positions of the enemies of Great Britain require or justify oppressive and illegal practices.

(34) The Government of the United States desires, therefore, to impress most earnestly upon His Majesty's Government that it must insist that the relations between it and His Majesty's Government be governed, not by a policy of expediency, but by those established rules of international conduct upon which Great Britain in the past has held the United States to account when the latter nation was a belligerent engaged in a struggle for national existence. It is of the highest importance to neutrals not only of the present day but of the future that the principles of international right be maintained unimpaired.

(35) This task of championing the integrity of neutral rights, which have received the sanction of the civilized world against the lawless conduct of belligerents arising out of the bitterness of the great conflict which is now wasting the countries of Europe, the United States unhesitatingly assumes, and to the accomplishment of that task it will devote its energies, exercising always that impartiality which from the outbreak of the war it has sought to exercise in its relations with the warring nations.

I enclose as supplements to this instruction the United States Navy Order of August 18, 1862, and a statement regarding vessels detained by British authorities. These two documents should be transmitted as enclosures in your note to Sir Edward Grey.

I am, etc.,

ROBERT LANSING.

Enclosures:

United States Navy Order of August 18, 1862, and Statement regarding vessels detained by British authorities.

Appendix No. 1.

INSTRUCTIONS OF THE SECRETARY OF THE NAVY TO FLAG OFFICERS COMMANDING SQUADRONS AND OFFICERS COMMANDING CRUISERS, RELATIVE TO THE RIGHT OF SEARCH.

Navy Department, *August 18, 1862.*

Sir: Some recent occurrences in the capture of vessels, and matters pertaining to the blockade, render it necessary that there should be a recapitulation of the instructions heretofore from time to time given, and also of the restrictions and precautions to be observed by our squadrons and cruisers.

It is essential, in the remarkable contest now waging, that we should exercise great forbearance, with great firmness, and manifest to the world that it is the intention of our Government, while asserting and maintaining our own rights, to respect and scrupulously regard the rights of others. It is in this view that the following instructions are explicitly given:

First. That you will exercise constant vigilance to prevent supplies of arms, munitions, and contraband of war from being conveyed to the insurgents, but that under no circumstances will you seize any vessel within the waters of a friendly nation.

Secondly. That, while diligently exercising the right of visitation on all suspected vessels, you are in no case authorized to chase and fire at a foreign vessel without showing your colors and giving her the customary preliminary notice of a desire to speak and visit her.

Thirdly. That when that visit is made, the vessel is not then to be seized without a search carefully made, so far as to render it reasonable to believe that she is engaged in carrying contraband of war for or to the insurgents, and to their ports directly or indirectly by transshipment, or otherwise violating the blockade; and that if, after visitation and search, it shall appear to your satisfaction that she is in good faith and without contraband, actually bound and passing from one friendly or so-called neutral port to another, and not bound or proceeding to or from a port in the possession of the insurgents, then she can not be lawfully seized.

Fourthly. That, to avoid difficulty and error in relation to papers which strictly belong to the captured vessel, and mails that are carried, or parcels under official seals, you will, in the words of the law, "preserve all the papers and writings found on board and transmit the whole of the originals unmutilated to the judge of the district to which such prize is ordered to proceed"; but official seals, or locks, or fastenings of foreign authorities, are in no case, nor on any pretext, to be broken, or parcels covered by them read by any naval authorities, but all bags or other things covering such parcels, and duly seized and fastened by foreign authorities, will be, in the discretion of the United States officer to whom they may come, delivered to the consul, commanding naval officer, or legation of the foreign government, to be opened, upon the understanding that whatever is contraband or important as evidence concerning the character of a captured vessel will be remitted to the prize court, or to the Secretary of State at Washington, or such sealed bag or parcels may be at once forwarded to this Department, to the end that the proper authorities of the foreign Government may receive the same without delay.

You are specially informed that the fact that a suspicious vessel has been indicated to you as cruising in any limit which has been prescribed by this Department does not in any way authorize you to depart from the practice of the rules of visitation, search, and capture prescribed by the law of nations.

Very respectfully,

GIDEON WELLES,
Secretary of the Navy.

APPENDIX NO. 2.

STATEMENT REGARDING VESSELS DETAINED BY BRITISH AUTHORITIES.

September 10, 1915.

(1) Vessels whose cargoes and papers have been of such a character as to require but brief time for examination, have been held in British ports, according to this Government's information, for prolonged periods, in some instances for more than a month, and then released without the institution of prize court proceedings.

The steamer *Chester*, which sailed from Baton Rouge for Rotterdam with a cargo of illuminating oil, was taken into Falmouth September 21, 1914, and held until November 4 of that year.

The steamer *Ocean*, carrying the same kind of a cargo, from New York to Rotterdam, was taken into Plymouth September 23, 1914, and similarly released November 5.

The steamer *Charlois* and the steamer *New York*, carrying similar cargoes, were taken into British ports on September 30 and October 12, 1914, respectively, and similarly released on October 27.

The steamers *American* and *Rotterdam*, carrying cargoes of oil to Rotterdam, were also detained under conditions similar to those of the vessels just mentioned in the fall of 1914.

The steamer *Christian Knudsen*, carrying a cargo of oil in bulk, consigned to a Danish corporation in Copenhagen, was brought into the port of Kirkwall, detained for 11 days and then released.

Vessels carrying oil from the United States to long-established markets in Scandinavian countries have repeatedly been detained without being sent to the prize court for adjudication. Among them may be mentioned the *Brindilla*, the *Platuria*, the *Wico*, the *Polarine*, the *Pioneer*, the *Llama*, the *Muskogee*, and the *John D. Rockefeller*.

The steamer *Denver*, which carried a full cargo of cotton from Norfolk to Bremen and which had been loaded under the supervision of a British consular officer, was taken into Kirkwall in January last, as the Department was informed by the British Government, just to examine her papers and to verify her cargo.

The *George W. Hawley* was held for a month because she refused to comply with a requirement of the British authorities to discharge a single shipment, the illegal destination of which does not appear to have been disclosed by any evidence. The vessel carried a mixed cargo, including a shipment of oil. The British authorities insisted that the vessels should discharge the oil, which, the shipper represented, was consigned to one of its long-established agents in Sweden. Finally it was announced that the vessel would be released as an act of grace.

The steamer *Wico* was held by the British authorities last March. This Government was advised that the British Minister at Stockholm had informed the Swedish Foreign Office that the vessel had arrived in a British port with a full cargo of oil for a concern in Stockholm, and that, in view of the recent seizure by a German man-of-war of the steamship *Bryssel* and her cargo, the British Government required complete assurances from the Swedish Government before the *Wico* could be allowed to proceed to destination, that she would not share the fate of the *Bryssel*.

Subsequently this Government was informed that the vessel had been allowed to proceed, but that the British Government felt that, in the event of further cargoes going to Stockholm being seized by German ships, the whole question of permitting oil cargoes to proceed to that destination would have to be seriously reconsidered.

The steamer *Llama*, carrying a cargo of oil to a Scandinavian port, was taken into Kirkwall and subsequently released on June 5 last. After departing from Kirkwall the ship was again arrested on June 6, and although the officer of the war vessel which seized the *Llama* apparently was shown the ship's release papers, he placed a prize crew on board and ordered the vessel to Aberdeen and thence to Leith, where she was finally released on June 12, although she could not proceed until June 15, owing to a shortage of coal.

(2) Vessels have been held until they have reconsigned their cargoes to a consignee in a neutral country designated by the British Government.

The steamer *Seguranca*, which carried a general cargo from New York to the Netherlands, was detained at a great loss to the owners of the vessel and to the shippers in a British port for the greater part of last April, in order that her cargo might be reconsigned to the Netherlands Oversea Trust. The manifest showed that the entire cargo was consigned to named consignees in the Netherlands and was accompanied by a certificate of the British consul general in New York, stating that the loading was supervised by his inspector and that the vessel contained no cargo other than that specified in the manifest. A large part of the cargo, consisting of fresh fruit stored in the hold of the vessel, was subject to decay with great rapidity.

A similar requirement was imposed on the steamer *F. J. Lisman*, which during last June was detained at London. It appears that, after a prolonged detention of the ship of over a month, representatives of the shippers were compelled to discharge both contraband and non-contraband articles, and that the captain and the shippers, finding their efforts to comply with the requirements of the British authorities hopeless, abandoned the voyage.

The steamers *A. A. Raven* and *Vitalia*, carrying articles listed as conditional contraband, were detained in a British port in March last until the goods shipped to specified consignees in Holland could be consigned to the Netherlands Oversea Trust.

The steamer *Neches* was detained last May for about two weeks in

order that a shipment of cotton destined for Rotterdam might be consigned to the Netherlands Oversea Trust.

The steamer *Zzandjik* was detained last June, as the Department was informed, while the British minister at The Hague made inquiries as to whether the Netherlands Oversea Trust had accepted the consignment of the cargo.

(3) Detentions have been made without evidence amounting to probable cause. The steamer *Annam*, which was detained at Kirkwall last April, carried a cargo of food products from the United States to Swedish ports. She was detained owing to a "suspicion," as the British Government stated, that a part of its cargo was destined for Germany.

The steamer *Dronning Olga* was detained at Kirkwall in April last and the cargo, which consisted of cotton and food products, was placed in the prize court on the ground, as the Department was informed by the British Government, that it was "believed" that it was ultimately destined for Germany.

The steamer *Hilding*, which sailed from New York for Copenhagen with a general cargo consisting largely of food products, was seized and taken into Leith last April, and this Government was informed that the cargo has been seized as contraband with the expectation of holding it under the Order in Council of March 11, 1915, if the charge that the goods were contraband should fail.

Numerous similar instances might be cited.

The steamers *Christian Knudsen* and *Platuria*, carrying oil from New York to Denmark, were detained by the British authorities last fall, taken into British ports, and held until the British Government, as they stated, could make an investigation as to the destination of the cargo. Furthermore, this Government was informed that the vessels had been detained pending the receipt of guarantees from Denmark against the exportation of the cargoes, and that the orders were given for the release of the vessels on the receipt of satisfactory guarantees.

The steamer *Brindilla*, which sailed from New York October 13 last with a cargo of oil for Alexandria, was taken into port at Halifax and later released, as the Department was informed, when the British authorities received information that the ship's cargo was expected at Alexandria.

The steamer *Ambra* was taken into a British port in July last, and this Government was informed that this vessel was held pending inquiries that had been instituted concerning destination of certain

items of her cargo. About a week later the vessel was allowed to proceed.

In July last this Government was informed by the British Government that the prolonged detention of the oil steamers *Polarine*, *Platuria*, and *Pioneer* was due to the fact that His Majesty's Government's attention had latterly been drawn to the very large quantities of oil which had been shipped to Scandinavian countries during the last few months; that there had been every reason to suspect that some of the oil was destined for enemy countries; and that the arrival of the steamers in quick succession necessitated the institution of inquiries as to the ultimate destination of the oil.

The owners of these vessels and their cargoes complained to the Government of the United States against their detention, stating that the vessels carried the usual cargoes consigned in good faith to long-established subsidiaries in neutral countries, and further representing that, since supplies from Russia and Roumania had been prevented from entering Scandinavian ports, a large increase of business with them had been expected, but it had been found that during the first five months of the year 1915 total shipments of all petroleum products to these countries were less than for the same period last year, although business in previous years had steadily increased.

(4) Vessels have been held, according to statements of the British Government, because of the manner in which shipments have been consigned.

The steamer *Einerjarl* was brought into Kirkwall last May and its cargo of cottonseed cake, shipped from Newport News to Denmark, which the shippers represented was to be used exclusively for consumption in Denmark, was seized. This Government was informed that the cargo was discharged because it was consigned "to order."

The steamers *Alfred*, *Nobel*, *Bjorstjerne*, *Bjornsen*, and *Friedland* were seized last autumn because their cargoes were consigned "to order."

The shipments on the steamers *America* and *Artemis* have been placed in prize court under the Order in Council of March 11, 1915, because, the goods being consigned by the shippers to themselves, there was no guarantee of their ultimate destination.

(5) Goods have been seized by the British Government on the ground, as this Government has been informed, that the country to which they were shipped had not prohibited their export.

In the fall of the year 1914 copper shipped from the United States

to Sweden on the steamers *Francisco*, *Antares*, *Idaho*, *Tyr*, and *Toronto* was seized by the British authorities, because, as the British Government stated, the Swedish Government had not yet prohibited the reexportation of copper from Sweden.

A consignment of rubber on the Swedish ship *Zamora* had been placed in prize court last January, because, as the British Government stated, of the absence of a comprehensive prohibition on the exportation of rubber in all its forms from Denmark.

(6) The British authorities have repeatedly seized articles classified as contraband, articles classified as conditional contraband, as well as noncontraband goods, shipped to Scandinavian countries, to the Netherlands, and to Italy, then neutral, although the reëxportation of such commodities from these countries had been forbidden.

In December last the steamer *Tellus* was ordered to discharge a shipment of copper shipped from New York directly to a consignee in Milan, Italy, although by an Italian decree of November 13, 1914, the exportation of goods shipped in this manner was forbidden.

The steamer *Joseph W. Fordney* was seized 4 miles off the coast of Norway and, in charge of a prize crew, brought into Kirkwall April 8 last. The ship's manifest showed that the cargo consisted entirely of cattle fodder consigned to a person in Malmo, Sweden. It appeared, from information presented to this Government, that an affidavit regarding the character and destination of the cargo, made by the shipper of the entire cargo, was attached to the bill of lading, and that this affidavit contained a certification by the British consul general and Swedish consul and also a statement by the latter to the effect that the exportation from Sweden of the goods of which the cargo consisted was prohibited. The vessel was brought into a British port and her cargo discharged. This Government was informed by the British Government that, apart from the uncertainty of the address of the consignee of the cargo of this vessel, His Majesty's Government had evidence that the cargo was not destined for bona fide Swedish consumption but was intended for Germany.

Numerous other similar instances might be cited, including those of the detention of vessels carrying oil to Scandinavian ports which have been mentioned.

(7) Detentions have been made pending assurances that embargoed goods would be allowed to pass through a neutral country to Great Britain's allies.

The steamer *Leelanaw*, which carried a cargo of cotton from Galveston to Gothenburg for transshipment to Moscow, was detained in a British port early in June last. Relative to the detention of this vessel the British Foreign Office said:

> In view of the fact that cotton has now been placed on the Swedish prohibition of export list, His Majesty's Government have not considered it advisable to allow this large cargo to go on to Gothenburg until they are assured that there is a fair chance of it reaching its declared ultimate destination.

After nearly a month's detention the vessel was released on the understanding that she should proceed directly to Archangel.

The steamers *Jentland* and *Syrius* appear to have been recently detained under circumstances similar to those of the steamer *Leelanaw*.

(8) From time to time this Government has been informed of the seizure of cargoes on the ground that consignees have been known to trade with the enemy or because they were suspected of doing so.

In January last this Government was advised by the British Government that the British Government had been compelled to place in prize court a consignment of rubber on board the Swedish vessel *Zamora*, the consignee of these goods being regarded with grave suspicion, and there being reason to believe that the ultimate destination of the rubber was the enemy forces.

(9) Vessels have been seized and brought into port and have been required by the British authorities to pay pilotage, harbor, unlading, warehouse, storage or other dues, costs, and expenses in advance of a judicial determination of the validity of the seizure of vessel or cargo.

Instances of such treatment of vessels may be found in the cases of the detention of the steamer *Neches* last May, the *Ogeechee*, which was seized last April, and the *Antilla*, which was seized in February last and subjected to a prolonged detention. In the case of the last-mentioned ship, it appears, however, that the cost of discharging was borne by the British Government.

(10) Detentions of vessels proceeding from European ports:

The steamer *Ogeechee*, which left Bremen April 3 last for the United States, was detained at Sharpness and compelled to discharge its entire cargo, which consisted of approximately 200 shipments of goods urgently needed by American citizens. In most if not all cases it appears that ownership of these goods at the time of the seizure had passed to American consignees. In many instances American citizens had contracted

for the sale of the goods consigned to them and were prevented from carrying out their contracts.

The release of shipments on the vessel has been allowed on the production of proofs of American ownership of the goods prior to March 11, 1915. American consignees in order to avoid loss have endeavored to comply with the requirements in the presentation of proofs.

The steamer *Neches*, which sailed from Rotterdam to the United States, was brought to London and compelled, in June last, to discharge cargo on the ground, apparently, that the goods originated partly in Belgium. The vessel was detained about a month and, after having been damaged to the extent of approximately £1,500 as a result of a collision with another vessel while under the control of the British Admiralty, and after having been involved in litigation growing out of such collision, was allowed to proceed.

The following is a list of the vessels detained prior to March 11 last, among which are some regarding the detention of which details have been briefly stated in this memorandum:

Platuria, Brindilla, John D. Rockefeller, Kroonland, Noorham, Rotterdam, Sandefjord, Thomas J. Fordney, Fram, Edward Pierce, Ellen, Tellus, Sif, Kim, Canton, Ogeechee, Friedland, Gallileo, Uller, Verona, Zuiderdijk, Greenbrier, Herm, Arkansas, Ascot, Carolyn, Breiford, Bergensfjord, Bjornstjerne, Bjornsen, Ida Cuneo, Kentucky, General Minetonka, General Caloric, Denver.

The following is an incomplete list of vessels carrying American cargoes which, sailing in practically all instances from American to Scandinavian ports, were diverted by British authorities to the port of Kirkwall, or called at that port under instructions from owners, from March 11, 1915, to June 17, 1915:

Name of vessel.	Cargo.	Date of arrival in British ports.	Date of leaving British ports.
Elsa; part cargo put in prize court; ordered Sunderland to discharge	.....	March 11, 1915	March 15, 1915
Maracas; cargo put in prize court; ordered Hull to discharge	.....	March 11, 1915	March 16, 1915
Gudrun; bound from Europe to the United States.	.....	March 11, 1915	March 11, 1915
Amphitrite	Cottonseed cake .	March 12, 1915	March 14, 1915

Name of vessel.	Cargo.	Date of arrival in British ports.	Date of leaving British ports.
Jens Bang; bound from Europe to the United States.	.....	March 12, 1915	March 12, 1915
Rodfaze	Maize	March 12, 1915	March 14, 1915
Ran	Maize and rye	March 12, 1915	March 14, 1915
Lisken	Maize and rye	March 12, 1915	March 12, 1915
Absalon	.....	March 12, 1915	March 13, 1915
Wico	Oil	March 13, 1915	March 31, 1915
Torvig	Cottonseed cake	March 13, 1915	March 15, 1915
Green Briar	.....	March 13, 1915	March 16, 1915
Einar Jarl	Cotton	March 13, 1915	March 16, 1915
Ogeechee	.....	March 14, 1915	March 16, 1915
Tancred	Cotton	March 14, 1915	March 16, 1915
John Blummer	Oil cake	March 14, 1915	March 16, 1915
Sutra	Cotton	March 14, 1915	March 15, 1915
Frogner	General	March 15, 1915	March 18, 1915
Hjortholm	.....	March 17, 1915	March 18, 1915
California	General	March 17, 1915	March 23, 1915
Uffe; bound from Europe to United States via Ardrossan	.....	March 19, 1915	March 19, 1915
Carl Henckel	Cottonseed cake	March 20, 1915	March 25, 1915
Helga	Cottonseed cake	March 20, 1915	March 31, 1915
Newa	Cottonseed cake	March 20, 1915	March 26, 1915
Havet	.....	March 20, 1915	March 23, 1915
Terno	Maize	March 20, 1915	March 23, 1915
United States	General	March 21, 1915	March 24, 1915
Texas	General	March 21, 1915	March 24, 1915
Haakon VII	Cotton	March 21, 1915	March 23, 1915
Varing	Oilcake	March 21, 1915	March 26, 1915
Sinsen	.....	March 21, 1915	March 23, 1915
Oxelosund	Wheat	March 21, 1915	March 23, 1915
Sigurd	.....	March 21, 1915	March 22, 1915
Myrdal	General	March 22, 1915	March 24, 1915
Sark	Maize and barley	March 22, 1915	March 28, 1915
Borgland	Cotton	March 22, 1915	March 24, 1915
Vard	Grain, oil-cake, and starch	March 23, 1915	March 25, 1915
Nike; sailed for Newcastle	Maize	March 23, 1915	April 1, 1915
Gulfaxe	Wheat, maize, rye, and barley	March 23, 1915	March 25, 1915
New Sweden; prize crew to Newcastle	General	March 23, 1915	March 29, 1915
Stikelstad	General	March 23, 1915	April 4, 1915

Name of vessel.	Cargo.	Date of arrival in British ports.	Date of leaving British ports.
Korsfjord; whole cargo put in prize court; ordered Grimsby to discharge	Lard	March 24, 1915	March 28, 1915
Cygnus; cargo put in prize court; ordered West Hartlepool to discharge	General	March 24, 1915	March 31, 1915
Indianic; bound from Europe to United States		March 24, 1915	March 24, 1915
Vesta		March 24, 1915	March 25, 1915
Carmelina	Cotton	March 25, 1915	March 27, 1915
Henrik; part cargo put in prize court; ordered to Leith to discharge	General	March 25, 1915	April 14, 1915
Unita	Maize	March 25, 1915	March 29, 1915
Thorsdal	Maize	March 25, 1915	March 27, 1915
Drott	Oil cake	March 26, 1915	March 28, 1915
Karma		March 26, 1915	March 28, 1915
Strinda	Cotton	March 26, 1915	March 28, 1915
Iris	Cottonseed cake	March 26, 1915	March 28, 1915
Largo	Rye	March 26, 1915	March 28, 1915
Vincent; bound from Europe to United States		March 26, 1915	March 28, 1915
Ran	Maize	March 27, 1915	March 30, 1915
Terje Viken	General	March 27, 1915	April 29, 1915
Bretagne	Barley	March 27, 1915	March 31, 1915
Boden	Wheat	March 27, 1915	March 30, 1915
Avona	Cottonseed cake	March 27, 1915	March 30, 1915
Helmer Morch	Oil cake	March 27, 1915	March 30, 1915
Centric	Cotton	March 28, 1915	March 30, 1915
Stavn; part cargo put in prize court; sailed Leith to discharge.	General	March 28, 1915	April 1, 1915
Clitra	Maize	March 28, 1915	April 2, 1915
Athens; cleared at Ardrossan		March 29, 1915	April 29, 1915
Danmark; cleared at Ardrossan		March 29, 1915	April 29, 1915
Bergensfjord	General, mail and passengers	March 30, 1915	April 6, 1915
Sirius; bound from Europe to United States		March 30, 1915	March 30, 1915
Bia; whole cargo put in prize court; sailed to Manchester to discharge.	Cotton	March 30, 1915	April 7, 1915

Name of vessel.	Cargo.	Date of arrival in British ports.	Date of leaving British ports.
Oscar Trapp; bound from Europe to United States	.....	March 30, 1915	March 31, 1915
Fionia	Barley and general	March 31, 1915	April 6, 1915
Sverre	Barley	March 31, 1915	April 13, 1915
Hilding; part cargo put in prize court; sailed Leith to discharge	General	March 31, 1915	April 7, 1915
Liguria	Cotton	April 1, 1915	April 4, 1915
Nyland	Oats	April 1, 1915	April 3, 1915
Antwerpen	.....	April 1, 1915	April 2, 1915
Capella	Oil cake	April 1, 1915	April 3, 1915
Ellen	Maize	April 1, 1915	April 3, 1915
Atland	Wheat	April 1, 1915	April 2, 1915
Dorte Jensen	Maize	April 1, 1915	April 4, 1915
Nordland	Maize	April 2, 1915	April 4, 1915
Alexandra	General	April 2, 1915	April 4, 1915
Uto; whole cargo put in prize court; steamer ordered to Hull to discharge	Cottonseed cake	April 2, 1915	April 11, 1915
Romsdalfjord; part cargo put in prize court; ordered Sunderland to discharge	General	April 3, 1915	April 12, 1915
Sverige	Wheat and rye	April 3, 1915	April 4, 1915
Hammershus; cargo put in prize court; ordered to discharge at Glasgow	Rum, hides	April 3, 1915	April 17, 1915
Ulrick Holm	Grain	April 3, 1915	April 6, 1915
Jessie	Cottonseed cake	April 3, 1915	April 7, 1915
Romsdal	.....	April 3, 1915	April 4, 1915
Avance	Cottonseed cake	April 3, 1915	April 7, 1915
Hans Jensen	Maize	April 4, 1915	April 7, 1915
Kronstad	.....	April 4, 1915	April 7, 1915
Nedenes	Maize	April 4, 1915	April 7, 1915
Steinstad	Maize and rye	April 4, 1915	April 9, 1915
Albis; whole cargo put in prize court; ordered Middlesboro to discharge	General	April 5, 1915	April 11, 1915
Laly	Cotton and tobacco	April 5, 1915	April 13, 1915
Maud; part cargo put in			

Name of vessel.	Cargo.	Date of arrival in British ports.	Date of leaving British ports.
prize court; ordered Fleetwood to discharge..	Cotton and flour	April 5, 1915	April 17, 1915
Waldimir Reitz.....	Oil cake.....	April 5, 1915	Arpil 7, 1915
Kronsprins Olaf.....	Cotton and oil cake.....	April 5, 1915	April 13, 1913
Else.....	Maize.....	April 5, 1915	April 20, 1913
Chumpon.....	Cotton.....	April 6, 1915	April 13, 1913
Llama.....	Oil.....	April 6, 1915	April 13, 1915
Sorland; part cargo put in prize court; ordered West Hartlepool to discharge..	General.....	April 7, 1915	April 10, 1915
Muskogee.....	.....	April 7, 1915	April 14, 1915
Navago.....	General.....	April 7, 1915	April 11, 1915
Annum; part cargo put in prize court; ordered Hull to discharge.....	General.....	April 7, 1915	April 11, 1915
Albert W. Selmer.....	Rye.....	April 8, 1915	April 10, 1915
Siljestad.....	Maize.....	April 8, 1915	April 10, 1915
Leander.....	.....	April 8, 1915	April 10, 1915
Marie; prize crew to Greenock.....	Cotton.....	April 8, 1915	May 3, 1915
Joseph W. Fordney; prize crew to Wallow Bay	.....	April 8, 1915	April 19, 1915
Imo.....	Cottonseed cake .	April 9, 1915	April 11, 1915
Arkansas.....	General.....	April 9, 1915	April 14, 1915
Virginia.....	Rye.....	April 9, 1915	April 11, 1915
Lapland; part cargo put in prize court; ordered to Barrow to discharge.....	General.....	April 9, 1915	April 13, 1915
Zamora; part cargo put in prize court; ordered to Barrow to discharge.....	Grain and copper	April 9, 1915	April 16, 1915
Selma.....	.....	April 10, 1915	April 13, 1915
Hellig Olaf.....	General.....	April 11, 1915	April 15, 1915
Pacific; part cargo put in prize court; ordered Leith to discharge.....	General.....	April 11, 1915	April 16, 1915
Songelv.....	Cottonseed cake .	April 11, 1915	April 19, 1915
Lejre; part cargo put in prize court; ordered Sharpness to discharge ..	Cotton.....	April 11, 1915	April 20, 1915
Magdalene; ordered Manchester to discharge.....	Cotton	April 12, 1915	May 2, 1915

Name of vessel.	Cargo.	Date of arrival in British ports.	Date of leaving British ports.
Drot	.....	April 12, 1915	April 14, 1915
Tholma	.....	April 12, 1915	April 14, 1915
America; part cargo put in prize court; order Sunderland to discharge	General	April 12, 1915	April 16, 1915
N. F. Holding	Grain	April 12, 1915	April 14, 1915
Georgia; prize crew to Sharpness	Cotton	April 12, 1915	April 20, 1915
Johan Siem	Cottonseed cake	April 13, 1915	April 15, 1915
Hans Broge; cleared at Ardrossan	Rye	April 13, 1915	April 13, 1915
Tordis	Cottonseed cake	April 13, 1915	April 15, 1915
Baltic; ship ordered to Hull to discharge	Cotton	April 13, 1915	May 13, 1915
Braker	Maize	April 13, 1915	April 18, 1915
Roma	Lubricating oil	April 13, 1915	April 17, 1915
L. H. Carl; cleared at Ardrossan	.....	April 13, 1915	April 13, 1915
Hero	Maize	April 14, 1915	April 16, 1915
Mirjam	Rye	April 14, 1915	April 16, 1915
Kong Haakon	Maize	April 14, 1915	April 27, 1915
Dicido; prize crew to Fleetwood	Cotton	April 14, 1915	May 1, 1915
Lars Kruse	Maize	April 14, 1915	April 16, 1915
Talavera	Maize	April 14, 1915	April 17, 1915
Falka	Cottonseed cake	April 15, 1915	April 17, 1915
Carolina; ordered Grimsby to discharge	Cotton	April 15, 1915	May 2, 1915
Louisiana; ordered Hull to discharge part cargo	General	April 16, 1915	April 23, 1915
Mexicano; ordered Greenock with prize crew	General	April 16, 1915	April 18, 1915
Anglia; prize crew to Dundee	Cotton and resin	April 16, 1915	April 24, 1915
Jungshevd	.....	April 16, 1915	April 18, 1915
Orn; cleared at Ardrossan	.....	April 16, 1915	April 16, 1915
Bretagne	.....	April 17, 1915	April 19, 1915
Storaker	Maize	April 18, 1915	April 21, 1915
Torgerd	Cottonseed cake	April 18, 1915	April 20, 1915
Rhodesia; prize crew to Greenock	General	April 18, 1915	April 22, 1915
Olaf Kyrre; ordered Grimsby to discharge cotton	Cotton	April 19, 1915	May 5, 1915

Name of vessel.	Cargo.	Date of arrival in British ports.	Date of leaving British ports.
Heros	Wheat and rye	April 20, 1915	April 22, 1915
Bertha	Maize	April 21, 1915	April 23, 1915
Wilh Colding; cleared at Ardrossan		April 21, 1915	April 21, 1915
Kristianiafjord	General cargo, mail and passengers	April 21, 1915	April 22, 1915
Gothard	Cottonseed cake	April 21, 1915	April 23, 1915
Christian Michelsen	General	April 21, 1915	April 24, 1915
Eidswa	Cottonseed cake	April 21, 1915	April 24, 1915
Tomsk		April 22, 1915	April 27, 1915
Regina	Cottonseed cake	April 22, 1915	April 24, 1915
Russ	Cottonseed cake	April 22, 1915	April 24, 1915
Hogland; bound from Europe to United States		April 23, 1915	April 23, 1915
Randulf Hansen	Maize	April 23, 1915	April 25, 1915
St. Croix	Cottonseed cake	April 23, 1915	April 25, 1915
Ringhorn	Rye	April 24, 1915	April 25, 1915
Pioneer	Petroleum	April 24, 1915	April 26, 1915
Carl Henkel; via Newcastle for bunkers		April 24, 1915	April 24, 1915
Hero; cleared at Ardrossan		April 24, 1915	April 24, 1915
Locksley	Wheat	April 24, 1915	April 27, 1915
Kentucky	General	April 24, 1915	April 27, 1915
Soborg	Maize and barley	April 25, 1915	April 27, 1915
Artemis; prize crew to Avonmouth	General	April 25, 1915	April 28, 1915
Grointoft	Maize and barley	April 25, 1915	April 26, 1915
Hans Jensen; via Ardrossan for bunkers		April 25, 1915	April 25, 1915
Kongsfes	Oil cake	April 26, 1915	April 28, 1915
Brynhild; cleared at Ardrossan		April 26, 1915	April 26, 1915
Dronning Olga; prize crew to Leith	Wheat, lard, etc.	April 27, 1915	April 30, 1915
Kronsprins Frederick	Barley	April 27, 1915	April 29, 1915
Salina	Rye and maize	April 28, 1915	April 29, 1915
Ivar; cleared at Ardrossan	Maize	April 28, 1915	April 28, 1915
Nerbotten	Coal and lubricating oil	April 28, 1915	April 30, 1915
Fredericia; cleared at Ardrossan		April 29, 1915	April 29, 1915

Name of vessel.	Cargo.	Date of arrival in British ports.	Date of leaving British ports.
Wico; cleared at North Shields	Ballast	April 29, 1915	April 30, 1915
Carolyn; prize crew to Leith	Cotton and turpentine	April 29, 1915	May 3, 1915
Varing; via Newcastle for bunkers		April 30, 1915	May 1, 1915
Inland; cleared at Ardrossan		May 1, 1915	May 1, 1915
United States	Mails and passengers	May 2, 1915	May 4, 1915
Jens Bang	Maize	May 2, 1915	May 4, 1915
Ludvig Peyron	Wheat	May 4, 1915	May 5, 1915
Minerva; prize crew to Newcastle	General	May 4, 1915	May 7, 1915
Hatholmen	Cottonseed cake	May 4, 1915	May 6, 1915
Bur	Wheat	May 6, 1915	May 8, 1915
Petrolite	Petroleum lubricating oil	May 7, 1915	May 9, 1915
Augusta; prize crew to Leith	General	May 7, 1915	May 10, 1915
Gerd; prize crew to Leith	General	May 7, 1915	May 10, 1915
Thekla	Linseed cake	May 7, 1915	May 10, 1915
Orion	Maize	May 8, 1915	May 10, 1915
Paris; cleared at Ardrossan	Lubricating oil	May 8, 1915	May 8, 1915
Otterstad	Cottonseed cake	May 8, 1915	May 10, 1915
Sigyn; prize crew to Ipswich	Wheat, rye, and maize	May 8, 1915	May 14, 1915
Gudrun	Maize	May 8, 1915	May 9, 1915
Oscar II	General cargo, mail, and passengers	May 9, 1915	May 10, 1915
London; prize crew to Barrow	Lubricating oil	May 10, 1915	May 13, 1915
Maricopa	Gas oil	May 10, 1915	May 19, 1915
Gunborg; prize crew to Dundee	General	May 10, 1915	May 12, 1915
Liv	Rye	May 11, 1915	May 12, 1915
Loch Tay	General	May 11, 1915	May 19, 1915
Nordic; prize crew to Manchester	General	May 12, 1915	May 15, 1915
Indianic; prize crew to Leith	General	May 12, 1915	May 17, 1915
Vinland	Maize	May 13, 1915	May 15, 1915

Name of vessel.	Cargo.	Date of arrival in British ports.	Date of leaving British ports.
Sven; prize crew to King's Lynn	Rock, phosphate	May 13, 1915	May 24, 1915
Skinfaxe	Maize	May 14, 1915	May 16, 1915
Ooman	Maize	May 14, 1915	May 16, 1915
Prosper III; cleared at Ardrossan		May 14, 1915	May 14, 1915
Dania	General	May 14, 1915	May 19, 1915
John Blumer	Maize	May 15, 1915	May 18, 1915
Gurth	Wheat	May 15, 1915	May 17, 1915
Sommerstad	Maize	May 18, 1915	May 20, 1915
Sydland; prize crew to West Hartlepool	General	May 18, 1915	May 21, 1915
Uffe; cleared at Ardrossan	Oil cake	May 21, 1915	May 21, 1915
Redfaxe	Rye	May 22, 1915	May 25, 1915
Excellence Pleske	Cottonseed cake	May 23, 1915	May 27, 1915
Vulcan; cleared by customs on June 5, but detained by Admiralty	Oil	May 23, 1915	June 9, 1915
Ester	Cottonseed cake	May 23, 1915	May 25, 1915
Sigurd; cleared at Ardrossan	Oil cake	May 23, 1915	May 24, 1915
Drammensfjord	General	May 25, 1915	May 27, 1915
Glendoon	Cottonseed cake	May 25, 1915	May 27, 1915
Pythia; prize crew to Immingham	Cotton and cottonseed cake	May 27, 1915	May 30, 1915
Sophie	Cottonseed cake	May 27, 1915	May 29, 1915
Aldebaran	Maize	May 28, 1915	May 30, 1915
Kiruna	Wheat	May 28, 1915	May 30, 1915
Frederick VIII	General, mail, and passengers	May 28, 1915	May 29, 1915
Justensen; cleared at Ayr	Maize	May 28, 1915	May 28, 1915
Romanoff	Barley	May 28, 1915	June 30, 1915
Tyr; cleared by customs on 25th	General	May 29, 1915	June 29, 1915
Amphitrite	Rye	May 29, 1915	June 1, 1915
Olaf; cleared at Ardrossan	Cottonseed cake	May 29, 1915	May 29, 1915
Einar Jarl; prize crew to Sunderland	Cottonseed cake	May 29, 1915	June 11, 1915
Llama	Gas oil	May 29, 1915	June 5, 1915
Edderside	Oil cake	May 30, 1915	June 1, 1915
H. V. Ficker	Maize	May 31, 1915	May 31, 1915
Marietta di Giorgio	Gas oil and lubricating oil	June 1, 1915	June 18, 1915
Lyeglint	Oil cake	June 1, 1915	June 3, 1915

Name of vessel.	Cargo.	Date of arrival in British ports.	Date of leaving British ports.
Sydic	Wheat	June 1, 1915	June 3, 1915
Vidar	Cottonseed cake	June 2, 1915	June 6, 1915
Leelanaw; cleared for Archangel	Cotton	June 2, 1915	June 26, 1915
Bretagne; Tyne for bunkers	Maize	June 3, 1915	June 5, 1915
Polstad	Cottonseed cake	June 3, 1915	June 6, 1915
Gulfaxe	Maize	June 3, 1915	June 5, 1915
Ros	Rye	June 6, 1915	June 8, 1915
M. J. Mandal; cleared at Ayr	Maize	June 6, 1915	June 6, 1915
Whinlatter; detained	Barley and oil cake	June 6, 1915	.....
Narvik	Rye	June 6, 1915	June 8, 1915
Beden	Coal	June 6, 1915	June 10, 1915
Nordkyn; prize crew to Leith	Maize	June 8, 1915	June 17, 1915
Polarine; detained	Petroleum and naphtha	June 8, 1915	.....
Carl Henckel	Cottonseed cake	June 9, 1915	June 11, 1915
Jemtland; prize crew to Leith	Resin, cotton, cottonseed cake oil	June 9, 1915	June 12, 1915
Platuria; detained	Oil	June 10, 1915	.....
California	General	June 11, 1915	June 19, 1915
Djursland	Oil cake	June 11, 1915	June 17, 1915
Cushing	Petroleum	June 12, 1915	June 13, 1915
Absalon	Lubricating oil	June 13, 1915	June 13, 1915
Lisa; detained	Resin	June 13, 1915	.....
Wico	Oil	June 13, 1915	June 14, 1915
Balto	Coal	June 14, 1915	June 15, 1915
Nordhavet; prize crew to Grimsby	Agricultural implements	June 14, 1915	June 19, 1915
New Sweden	Gas coal	June 14, 1915	June 15, 1915
Oscar Trapp	Pitch pine wood	June 14, 1915	June 14, 1915
Hans Jensen	Maize	June 14, 1915	June 16, 1915
Signe; cleared by customs; taking bunkers; expect sail July 2, 1915	General	June 14, 1915	June 30, 1915
Dorte Jensen; cleared at Ardrossan	Maize	June 15, 1915	June 15, 1915
Portland; prize crew to Blyth	Barley, beans, dried fruit, and oil cake	June 15, 1915	June 18, 1915
Seaconnet; prize crew to Newcastle	General	June 16, 1915	June 19, 1915

The following is an incomplete list of neutral vessels detained in England during the remainder of June and the months of July and August. Precise information regarding the dates of arrival in England and the dates of sailing of these ships and regarding the seizure of cargoes thereon is not yet available.

Absalon, Lisa, Balto, Nordhavet, New Sweden, Hans Jensen, Dorte, Jensen, Hellig Olav, Muskogee, Bratland, Polarstgernan, Locksley, Atland, Akarea, Janna, Sirius, Frederick VII, Nordstgernan, Texas, Ullsbrand, Falkland, Sir Ernest Cassel, Wico, Portland, Llama, Pioneer, Kristianifjord, Florida, Skogland, Groentoft, Louisiana, Virginia, Gurre, Hans Broge, Stanja, United States, Russ, Ulrik Holm, Glitra, Kentucky, Tuborg, Fram, Urd, Mexicano, Pangan, Varing, Oscar II, Bergensfjord, Arkansas, Conrad Mohr, Noruga, Alf, Hogland, Thyras, Kong Haakon, Talisman, Corona, Drammonsfjord, Petrolite, Brindilla, Lesseps, Platuria, Sydie, Jutlandic, Zammora, Helga, Kronprinzessin Margareta, Stryn, Narvic, Alexander, Barendrecht, Spangereid, Marie, St. Andrew, Artemis, Dania, London, Salonica, Alexander Shukoff, Angla, Johan Siem, Nordhvalen.

Ambassador W. H. Page to the Secretary of State.

No. 2559.] AMERICAN EMBASSY,
London, November 18, 1915.

SIR: Referring to my cablegram No. 3214 of November 15,[1] in regard to the two Orders in Council of the 10th instant relating to British vessels, I now have the honor to transmit herewith, for the information of the Department, 7 copies each of the following extracts from the Second Supplement to the London Gazette of Tuesday, the 9th of November, 1915:

"Requisition of ships (carriage of foodstuffs)," "Carriage of cargoes on British vessels between foreign ports."

I have, etc.,

WALTER HINES PAGE.

[1] Not printed.

[Inclosure.]

[Extract from the Second Supplement to the London Gazette of Tuesday, November 9, 1915.]

REQUISITION OF SHIPS (CARRIAGE OF FOODSTUFFS)—ORDER IN COUNCIL, 1915.

At the Court at Buckingham Palace, the 10th day of November, 1915.

Present: The King's Most Excellent Majesty in Council.

Whereas a state of war exists between His Majesty and the German Emperor, the Emperor of Austria King of Hungary, the Sultan of Turkey, and the King of the Bulgarians:

And whereas His Majesty holds it to be His Prerogative Duty as well as His Prerogative Right to take all steps necessary for the Defence and Protection of the Realm;

And whereas it has been made to appear to His Majesty that it is essential to the Defence and Protection of the Realm that all British ships registered in the United Kingdom should be made liable to requisition in manner hereinafter appearing for the carriage of foodstuffs and of any other articles of commerce;

Now, therefore, His Majesty is pleased, by and with the advice of His Privy Council, and in exercise of His Prerogatives as aforesaid and of all other powers Him thereunto enabling, to order, and it is hereby ordered, that any British ship registered in the United Kingdom may until further order be requisitioned by and on behalf of His Majesty for the carriage of foodstuffs and of any other articles of commerce, and such requisition is to take effect upon Notice of Requisition being served as hereinafter provided on the Owner of any such ship;

And His Majesty is further pleased, by and with the advice aforesaid, to authorize and direct the President of the Board of Trade to give effect to this Order by causing Notice of Requisition to be served on the Owner of any such ship;

And His Majesty is further pleased, by and with the advice aforesaid, to declare that service of Notice of Requisition on an Owner shall be deemed sufficient and effective if served in the case of an individual Owner by being addressed to such individual Owner and left at his last-known place of business or abode, and in the case of joint Owners by being addressed to such joint Owners and left at the last-known

business addresses or places of abode of such joint Owners, and in the case of a Company or Corporation by being addressed to such Company or Corporation and left at the registered or other address of such Company or Corporation, or in any of the aforesaid cases by being addressed to the Managing Owner, Ship's Husband, or other the person to whom the management of the ship is by law entrusted by or on behalf of the Owners, and left at the registered or other last-known address or place of abode of such Managing Owner, Ship's Husband, or other such person, as the case may be;

And His Majesty is further pleased, by and with the advice aforesaid, to declare that any Notice of Requisition which the President of the Board of Trade may cause to be served hereunder, may be signed by any person or persons from time to time authorized for such purpose either generally or specially by the President of the Board of Trade.

And the President of the Board of Trade is to give instructions and directions accordingly.

ALMERIC FITZROY.

[Inclosure 2.]

[Extract from the Second Supplement to the London Gazette of Tuesday, November 9, 1915.]

CARRIAGE OF CARGOES ON BRITISH VESSELS BETWEEN FOREIGN PORTS—ORDER IN COUNCIL.

At the Court at Buckingham Palace, the 10th day of November, 1915.

Present: The King's Most Excellent Majesty in Council.

Whereas a state of war exists between His Majesty and the German Emperor, the Emperor of Austria King of Hungary, the Sultan of Turkey, and the King of the Bulgarians;

And whereas His Majesty holds it to be His Prerogative Duty as well as His Prerogative Right to take all steps necessary for the Defense and Protection of the Realm;

And whereas it has been made to appear to His Majesty that it is essential to the Defense and Protection of the Realm, that, in the exercise of His Prerogatives as aforesaid, He should prohibit as from and after the First day of December, 1915, the carrying of cargo from any foreign port to any other foreign port by any British Steamship registered in the United Kingdom exceeding 500 tons gross tonnage—and whether or not such ship while carrying such cargo calls at any intermediate port within His Majesty's Dominions—unless the Owner or Charterer of such Steamship has been granted exemption by License as hereinafter provided:

Now, therefore, His Majesty is pleased, by and with the advice of His Privy Council, and in exercise of His Prerogatives as aforesaid and of all other powers Him thereunto enabling, to order, and it is hereby ordered, that from and after the First day of December, 1915, no British Steamship registered in the United Kingdom exceeding 500 tons gross tonnage shall carry any cargo from any foreign port to any other foreign port—and whether or not such ship while carrying such cargo calls at any intermediate port within His Majesty's Dominions—unless the Owner or Charterer of such Steamship has been granted exemption by License as hereinafter provided.

And His Majesty doth hereby declare that the expression "foreign port" herein used shall mean and include any port outside His Majesty's Dominions.

And His Majesty, by and with the advice aforesaid, and in exercise of His Prerogatives and Powers as aforesaid, is further pleased to authorize and direct the President of the Board of Trade to appoint a Committee of persons to carry out and give effect to the provisions hereof, and that the said Committee shall have power to grant Licenses of exemption therefrom to or in favor of Owners and Charterers of such Steamships as aforesaid, which Licenses may be general in reference to classes of ships or their voyages or special.

And His Majesty is further pleased to authorize the President of the Board of Trade from time to time to add other persons as members of such Committee, and to substitute as members thereof other persons for such members as may from time to time die, resign, or be or become incapable of acting thereon.

And the President of the Board of Trade is to act and to give instructions and directions accordingly.

ALMERIC FITZROY.

Ambassador W. H. Page to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
London, January 19, 1916.

Trading with the enemy (extension of powers) act 1915. An act to provide for the extension of the restrictions relating to trading with the enemy to persons to whom, though not resident or carrying on business in enemy territory, it is by reason of their enemy nationality or enemy associations expedient to extend such restrictions (23d December, 1915). Be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal and Commons in this present Parliament assembled, and by the authority of the same, as follows:

1. (1) His Majesty may by proclamation prohibit all persons or bodies of persons, incorporated or unincorporated, resident carrying on business or being in the United Kingdom, from trading with any persons or bodies of persons not resident or carrying on business in enemy territory or in territory in the occupation of the enemy (other than persons or bodies of persons, incorporated or unincorporated, residing or carrying on business solely within His Majesty's dominions), wherever by reason of the enemy nationality or enemy association of such persons or bodies of persons incorporated or unincorporated, it appears to His Majesty expedient so to do; and if any person acts in contravention of any such proclamation he shall be guilty of a misdemeanor, triable and punishable in like manner as the offence of trading with the enemy; (2) any list of persons and bodies of persons, incorporated or unincorporated, with whom such trading is prohibited by a proclamation under this act, may be varied or added to by an order made by the Lords of the Council on the recommendation of a Secretary of State; (3) the provisions of the trading with the enemy acts, 1914 and 1915, and of the customs (war powers) (Number 2) act, 1915, and all other enactments relating to trading with the enemy shall, subject to such exceptions and adaptations as may be prescribed by Order in Council, apply in respect of such persons and bodies of persons as aforesaid, as if for references therein to trading with the enemy there were substituted references to trading with such persons and bodies of persons as aforesaid, and for references to enemies there were substituted references to such persons and bodies of persons as aforesaid, and for references to offences under the trading

with the enemy acts, 1914 and 1915, or any of those acts there were substituted references to offences under this act; (4) for the purpose of this act a person shall be deemed to have traded with a person or body of persons to whom a proclamation issued under this act applies if he enters into any transaction or does any act with, to, on behalf of, or for the benefit of such a person or body of persons, which, if entered into or done with, to, on behalf of, or for the benefit of an enemy, would be trading with the enemy.

2. This act may be cited as the trading with the enemy (extension of powers) act, 1915.

PAGE.

The Secretary of State to Ambassador W. H. Page.

[Telegram.]

DEPARTMENT OF STATE,
Washington, January 25, 1916.

Your 3601 and 3602, January 19.

Department has given consideration to enemy trading act approved December 23 last, the apparent object of which is to prevent any person doing business in the United Kingdom from trading with the enemies of Great Britain or persons having enemy association in any other part of the world, and the Department has reached the conclusion that this act is pregnant with possibilities of undue interference with American trade, if in fact such interference is not now being practiced. As it is an opinion generally held in this country, in which this Government shares, that the act has been framed without a proper regard for the right of persons domiciled in the United States, whether they be American citizens or subjects of countries at war with Great Britain, to carry on trade with persons in belligerent countries, and that the exercise of this right may be subject to denial or abridgment in the course of the enforcement of the act, the Government of the United States is constrained to express to His Majesty's Government the grave apprehensions which are entertained on this subject by this Government, by the Congress, and by traders domiciled in the United States. It is, therefore, necessary to bring these views to the attention of Sir Edward Grey and to present to him a formal reservation, on the part of this Government, of the

right to protest against the application of this act, in so far as it affects the trade of the United States, and to contest the legality or rightfulness of imposing restrictions upon the freedom of American trade in this manner.

LANSING.

Ambassador W. H. Page to the Secretary of State.

No. 3092.] AMERICAN EMBASSY,
London, February 19, 1916.

SIR: With reference to the Department's cablegram No. 2774, of January 25, and my telegraphic reply No. 3913, of the 18th instant,[1] relative to the possible effects of the trading with the enemy (extension of powers) act, 1915, on the commerce of the United States, I have the honor to transmit herewith, for the information of the Department, a copy of the note dated the 16th instant, which has been addressed to the Embassy by the Foreign Trade Department of the Foreign Office in this connection.

I have, etc.,

WALTER HINES PAGE.

[Inclosure.]

The British Secretary of State for Foreign Affairs to Ambassador W. H. Page.

No. 1540/45.] FOREIGN OFFICE,
FOREIGN TRADE DEPARTMENT,
LANCASTER HOUSE, ST. JAMES, S. W.
February 16, 1916.

YOUR EXCELLENCY: I have the honour to acknowledge the receipt of Your Excellency's note of the 26th ultimo relative to the possible effects of the trading with the enemy (extension of powers) act, 1915, on United States commerce.

The act was framed with the object of bringing British trading with

[1] Not printed.

the enemy regulations into greater harmony with those adopted by the French Government since the commencement of the war by applying in some degree the test of nationality in the determination of enemy character in addition to the old test of domicile, which experience has shown can not provide a sufficient basis under modern commercial conditions for measures intended to deprive the enemy of all assistance, direct or indirect, from national resources.

His Majesty's Government realized, however, that the application of this principle to its fullest extent, while entirely legitimate and in accordance with the practice of other countries, might, if applied at the present time to commercial activities as widespread as those of British subjects, involve avoidable inconvenience and loss to innocent traders.

They were careful, therefore, in devising the necessary legislation not only to avoid any definition which would impose enemy status upon all persons of enemy nationality and associations, but also to take powers of discrimination which would enable them to apply the purely commercial restrictions contemplated only in regard to those persons from whom it was necessary in British interests to withhold the facilities afforded by British resources.

His Majesty's Government have therefore abstained from a course of action admittedly within their rights as belligerents, which is not only the existing practice of the French Government but in strict accordance with the doctrine openly avowed by many other States to be the basis upon which their trading with the enemy regulations would be founded in the event of war, and have confined themselves to passing a piece of purely domestic legislation empowering them to restrict the activities and trade of persons under British jurisdiction in such a manner and to such an extent as may seem to them to be necessary in the national interest.

His Majesty's Government readily admit the right of persons of any nationality resident in the United States to engage in legitimate commercial transactions with any other persons. They can not admit, however, that this right can in any way limit the right of other Governments to restrict the commercial activities of their nationals in any manner which may seem desirable to them by the imposition of prohibitions and penalties which are operative solely upon persons under their jurisdiction.

In claiming this right which appears to them to be inherent in sovereignty and national independence, His Majesty's Government desire to assure the United States Government that they will exercise it with

every possible care to avoid injury to neutral commerce, and they venture to think that the voluntary limitation of their powers by the terms of the trading with the enemy (extension of powers) act, 1915, is evidence of their desire and intention to act with the greatest possible consideration for neutral interests.

I have, etc.,

For the Secretary of State:
L. WORTHINGTON EVANS.

Ambassador W. H. Page to the Secretary of State.

No. 3093.] AMERICAN EMBASSY,
London, February 19, 1916.

SIR: I have the honor to report to the Department the following facts which have presented themselves with reference to goods belonging to American citizens which have been detained by the British Government authorities and placed in the Prize Court.

The Foreign Office has undertaken to inform the Embassy of the seizure of any vessel carrying American goods and also of the items of these goods which have been detained and placed in the Prize Court. Upon the receipt of such information as to the vessel or a list of the goods detained and held for Prize Court proceedings, the Embassy is in the practice of immediately cabling it to the Department.

The Department of State, it is understood, informs the American shipper that the Embassy has cabled that the goods have been placed in the Prize Court. In a great many instances the shipper telegraphs or writes direct to the Embassy requesting it to arrange for the release of their goods.

The Embassy understands that, inasmuch as Prize Court proceedings are to take place, no diplomatic representations will be received by the British Government in connection with these goods, unless such representations are pursuant to special instructions of the Government at Washington.

In almost all cases where such representations are made to the Foreign Office under instructions from the Department, the Foreign Office replies that the Procurator General finds that it is impossible to comply with the request for release, and that the claimants must communicate with the Procurator General's office, where, if satisfactory proof is produced

the goods will be released; or, if the proofs appear to be unsatisfactory, the goods will be held until the sitting of the Prize Court, which will then pass its judgment on the goods.

As the Procurator General's office will receive no official communication from the Embassy in matters of this kind, the shipper must either transmit his evidence direct or employ his agents or a solicitor in London.

The larger American shippers usually have an office or an agent in London who understands Prize Court proceedings, and is capable of appearing at the Procurator General's office in support of the claim for the release of the goods. The smaller shippers who have no office in London are in this way placed at a disadvantage.

In view of the fact that the Consul General is in the practice of communicating directly with the Procurator General's office in regard to all claims of American citizens, I respectfully suggest that the Department advise the shipper to send the necessary papers to him direct, unless the Department wishes further diplomatic representations to be made.

In all cases where the shipper writes direct to the Embassy, and it is found that communication with the Foreign Office would be of no avail, I shall advise the shipper to address himself directly to the Consul General, and shall send him a list of the documents which he should transmit with his letter.

I also feel that the American exporter should be informed as to the exact status of Prize Courts in international relations, and of the position of goods actually in the Prize Court, and that the British Government will receive no diplomatic representations in these cases except under instructions from the Government in view of special circumstances involved.

The Procurator General's office has advised me informally that the documents which should be submitted to it in support of claims for the release of goods are as follows: The originals of—

1. Bills of ladings.
2. Invoices.
3. All previous correspondence with firms in the country to which the goods are shipped.
4. Contracts.
5. Insurance policies.
6. An affidavit setting forth all facts of the case.

I feel sure that this procedure will be the quickest and easiest way of disposing to the satisfaction of the shipper such cases as the British

Government will not release from the Prize Court on diplomatic representations, or where goods are in the Prize Court and no diplomatic representations are in order.

I have, etc.,

WALTER HINES PAGE.

Consul General Skinner to the Secretary of State.

No. 1248.] AMERICAN CONSULATE GENERAL,
London, February 24, 1916.

SIR: I have the honor to enclose herewith copy of a letter received from the American Consular Agent at Kirkwall setting forth the routine practice of the British authorities on the arrival of vessels diverted to that port by the Admiralty.

I have, etc.,

R. P. SKINNER.

[Inclosure.]

Consular Agent Flett [1] to Consul Latham.[2]

KIRKWALL, *February 14, 1916.*

SIR: I find I have to acknowledge receipt of your letter of the 7th instant.

So soon as a vessel from an American or other port arrives here she is boarded by an Admiralty Officer, who examines the ship's papers and also the crew. She is also boarded by the Customs Officials, who examine the ship's papers and search the ship in the ordinary way. The whole ship's papers are removed by the Customs Officials and brought ashore with them and retained in the Customs Office here. The papers are then examined by the indoor staff of the Customs here and all particulars relating to ship and cargo are telegraphed to London. The papers are retained by the Customs until they receive instructions whether the vessel is to be allowed to proceed or whether the whole cargo or part thereof is to be placed in the Prize Court. If the vessel is allowed to

[1] American consular agent at Kirkwall. [2] American consul at Dundee.

proceed, the ship's papers are then handed over by the Customs to the Admiralty Port Officer and he either hands them over to the Captain personally or sends them on board the vessel. In the event of part or the whole of the cargo being placed into the Prize Court, the ship's papers are handed by the Admiralty Port Officer to the Prize Officer, who is sent on board that vessel to whichever port she might be ordered to discharge.

If the vessel is cleared, the Customs Authorities give the Master of the Vessel a clearance card to that effect. It is very seldom that a vessel ever breaks bulk here. I have known of a small quantity of cargo that has been prizecourted being taken out of a vessel here, so as to allow the vessel to proceed and avoid unnecessary delay and expense in sending her to another port to discharge. It is, however, very seldom that this happens. If I have not made myself sufficiently clear, I shall be very pleased on hearing from you to give you further information on any points that you may wish further information.

I am, etc.,

JAMES FLETT,
Consular Agent.

The Acting Secretary of State to Ambassador W. H. Page.

No. 3374.] DEPARTMENT OF STATE,
Washington, March 16, 1916.

SIR: The Department is in receipt of your No. 3093, of February 19, 1916, reporting facts which have presented themselves with reference to goods belonging to American citizens which have been detained by the British authorities and placed in the Prize Court.

In this relation there is enclosed herewith for your information a copy of the letter sent by the Department to the William Amer Company under date of March 9, 1916.

With a view to having the Consul-General render such assistance as may be possible and proper in an endeavor to bring about the release of goods which have been seized by the British authorities, the Department has addressed similar communications to other American shippers who have complained respecting the seizure of goods shipped by them to European ports.

I am, etc.,

FRANK L. POLK.

[Inclosure.]

The Secretary of State to the William Amer Company.

DEPARTMENT OF STATE,
Washington, March 9, 1916.

GENTLEMEN: The Department has received your letter of March 1, 1916, in regard to the seizure by the British authorities of a quantity of glazed kid shipped by you to Sweden on the steamship *Alexandria*.

The Department encloses for your information, a print containing an Order in Council issued by the British Government March 11, 1915, regarding the stopping of goods shipped to or from Germany. This Order, which is at present the subject of diplomatic discussion between the Government of the United States and the Government of Great Britain, shows the action which the British Government declare their intention to take in the matter of stopping goods which they desire to have taken by interested persons to obtain the restoration of their goods or payment therefor.

The American Consul General has informed the Department that, if shippers will communicate with him directly regarding shipments which have been detained under this Order in Council, he will ascertain the status of the goods, and, when possible, endeavor to effect their release. The Consul General states that, even though goods may be classified as contraband, the Procurator General will consider evidence indicating innocent ultimate destination of such goods, and has advised him (the Consul General) to obtain, wherever possible, original correspondence with buyers or consignors. The Consul General further states that when claims for goods are submitted through the Consulate General there is always hope that the release of the property will follow without formal proceedings or expense, and that if such release is not brought about the papers in any given case in which prize court proceedings may be instituted may be turned over to British solicitors. The Consul General points out that in all cases it is futile to forward requests for release of goods unsupported by documentary history showing the ownership and destination of the consignment which it is sought to have released. The Procurator General has suggested that the papers which should be presented are the originals of invoices, contracts, insurance policies, bills of lading, all correspondence with concerns in the country to which the goods are shipped, and an affidavit setting forth the facts in a given case.

As has just been stated, the Order in Council regarding the stopping of goods shipped to or from Germany is at present the subject of diplomatic discussion between the Government of the United States and the Government of Great Britain. And neither anything contained in this letter nor any action of the Consul General in connection with his efforts to bring about the release of goods which have been detained should be construed as an admission on the part of the Government of the United States of the legality of the action taken by the British Government under this Order.

It is suggested that you might deem it advisable to communicate directly with the Consul General regarding the shipment referred to in your letter. On the other hand, if these goods have been sent to the prize court, it may be well for you to take prompt steps to establish your rights before the court. The Department can not undertake to assist private persons in the conduct of proceedings before the court.

Should you desire to consult private counsel in England regarding this matter, the American Consul General at London will doubtless be able to furnish you on your request with the names of a number of reputable attorneys one of whom may be employed in the matter. It should be stated in this connection, however, that obviously neither the Consul General nor the Department can be responsible for the integrity or ability of any lawyer who may be employed as a result of the information furnished by the Consul General.

I am, etc., For the Secretary of State:
ALVEY A. ADEE.

The British Ambassador to the Secretary of State.

No. 107.] BRITISH EMBASSY,
Washington, April 24, 1916.

SIR: I have the honour, in obedience to instructions received from Sir Edward Grey, His Majesty's Principal Secretary of State for Foreign Affairs, to transmit to you herewith a memorandum embodying the reply to the representations of your Government in regard to restrictions on trade, which were communicated to Sir Edward Grey in Mr. Page's note of November 5, last, in pursuance to your instructions dated October 21.[1]

I have, etc., CECIL SPRING-RICE.

[1] *Supra*, p. 73.

[Inclosure.]

MEMORANDUM.

The communication addressed by the United States Ambassador in London to Sir E. Grey on the 5th November, 1915, has received the careful attention of His Majesty's Government, in consultation with their allies the French Government, and His Majesty's Government have now the honour to make the following reply:

2. The first section (paragraphs 3–15) of the United States note relates to cargoes detained by the British authorities in order to prevent them from reaching an enemy destination, and the complaint of the United States Government is summarized in paragraph 33 to the effect that the methods sought to be employed by Great Britain to obtain and use evidence of enemy destination of cargoes bound for neutral ports and to impose a contraband character upon such cargoes are without justification.

3. The wording of this summary suggests that the basis of the complaint of the United States Government is not so much that the shipments intercepted by the naval forces were really intended for use in the neutral countries to which they were despatched, as that the despatch of goods to the enemy countries has been frustrated by methods which have not been employed by belligerent nations in the past. It would seem to be a fair reply to such a contention that new devices for despatching goods to the enemy must be met by new methods of applying the fundamental and acknowledged principle of the right to intercept such trade.

4. The question whether the exercise of the right of search can be restricted to search at sea was dealt with in Sir E. Grey's note of the 7th January, 1915, and His Majesty's Government would again draw attention to the facts that information has constantly reached them of attempts to conceal contraband intended for the enemy in innocent packages, and that these attempts can only be frustrated by examination of the ship and cargo in port. Similarly, in Sir E. Grey's note of the 10th February, 1915, it was pointed out that the size of modern steamships, and their capacity to navigate the waters where the allied patrols have to operate, whatever the conditions of the weather, frequently render it a matter of extreme danger, if not of impossibility, even to board the vessels unless they are taken into calm water for the purpose. It is unnecessary to repeat what was said in that note. There is nothing that

His Majesty's Government could withdraw or that the experience of the officers of the allied fleets has tended to show was inaccurate.

5. When visit and search at sea are possible, and when a search can be made there which is sufficient to secure belligerent rights, it may be admitted that it would be an unreasonable hardship on merchant vessels to compel them to come into port, and it may well be believed that maritime nations have hesitated to modify the instructions to their naval officers that it is at sea that these operations should be carried out, and that undue deviation of the vessel from her course must be avoided. That, however, does not affect the fact that it would be impossible under the conditions of modern warfare to confine the rights of visit and search to an examination of the ship at the place where she is encountered without surrendering a fundamental belligerent right.

6. The effect of the size and seaworthiness of merchant vessels upon their search at sea is essentially a technical question, and accordingly His Majesty's Government have thought it well to submit the report of the board of naval experts, quoted by the United States Ambassador in paragraph 7 of this note, to Admiral Sir John Jellicoe for his observations. The unique experience which this officer has gained as the result of more than 18 months in command of the Grand Fleet renders his opinion of peculiar value. His report is as follows:

> It is undoubtedly the case that the size of modern vessels is one of the factors which renders search at sea far more difficult than in the days of smaller vessels. So far as I know, it has never been contended that it is necessary to remove every package of a ship's cargo to establish the character and nature of her trade, &c.; but it must be obvious that the larger the vessel and the greater the amount of cargo, the more difficult does examination at sea become, because more packages must be removed.
>
> This difficulty is much enhanced by the practice of concealing contraband in bales of hay and passengers' luggage, casks, &c., and this procedure, which has undoubtedly been carried out, necessitates the actual removal of a good deal of cargo for examination in suspected cases. This removal cannot be carried out at sea, except in the very finest weather.
>
> Further, in a large ship the greater bulk of the cargo renders it easier to conceal contraband, especially such valuable metals as nickel, quantities of which can easily be stowed in places other than the holds of a large ship.
>
> I entirely dispute the contention, therefore, advanced in the American note, that there is no difference between the search of a ship of 1,000 tons and one of 20,000 tons. I am sure that the fallacy of the statement must be apparent to anyone who has ever carried out such a search at sea.
>
> There are other facts, however, which render it necessary to bring vessels into port for search. The most important is the manner in which those in command of Ger-

man submarines, in entire disregard of international law and of their own prize regulations, attack and sink merchant vessels on the high seas, neutral as well as British, without visiting the ship and therefore without any examination of the cargo. This procedure renders it unsafe for a neutral vessel which is being examined by officers from a British ship to remain stopped on the high seas, and it is therefore in the interests of the neutrals themselves that the examination should be conducted in port.

The German practice of misusing United States passports in order to procure a safe conduct for military persons and agents of enemy nationality makes it necessary to examine closely all suspect persons, and to do this effectively necessitates bringing the ship into harbor.

7. Sir John Jellicoe goes on to say:

The difference between the British and the German procedure is that we have acted in the way which causes the least discomfort to neutrals. Instead of sinking neutral ships engaged in trade with the enemy, as the Germans have done in so many cases in direct contravention of article 113 of their own Naval Prize Regulations, 1909, in which it is laid down that the commander is only justified in destroying a neutral ship which has been captured if—

(*a*) She is liable to condemnation, and

(*b*) The bringing in might expose the warship to danger or imperil the success of the operations in which she is engaged at the time—

we examine them, giving as little inconvenience as modern naval conditions will allow, sending them into port only where this becomes necessary.

It must be remembered, however, that it is not the allies alone who send a percentage of neutral vessels into port for examination, for it is common knowledge that German naval vessels, as stated in paragraph 19 of the American note, "seize and bring into German ports neutral vessels bound for Scandinavian and Danish ports."

As cases in point, the interception by the Germans of the American oil-tankers *Llama* and *Platuria* in August last may be mentioned. Both were bound to America from Sweden and were taken into Swinemunde for examination.

8. The French Ministry of Marine shares the views expressed by Sir J. Jellicoe on the question of search at sea, and has added the following statement: [1]

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[1] UNAUTHORIZED TRANSLATION OF PARAGRAPH 8 OF THE BRITISH MEMORANDUM.

Naval practice, as it formerly existed, consisting in searching ships on the high seas, a method handed down to us by the old navy, is no longer adaptable to the conditions of navigation at the present day. Americans have anticipated its insufficiency and have foreseen the necessity of substituting some more effective method. In the instructions issued by the American Navy Department, under date of June 20, 1898, to the cruisers of the United States, the following order is found (clause 13):

"If the latter (the ship's papers) show contraband of war, the ship should be

La pratique navale, telle qu'elle existait autrefois et consistant à visiter les navires en mer, méthode que nous a léguée l'ancienne marine, ne s'adapte plus aux conditions de la navigation actuelle. Les Américains ont pressenti son insuffisance et ont prévu la nécessité de lui en substituer une plus efficace. Dans les Instructions données par le Département de la Marine américaine, du 20 juin, 1898, aux croiseurs des États-Unis, on trouve déjà la prescription suivante:

"Si ces derniers [les papiers de bord] indiquent de la contrebande de guerre, le navire devra être saisi; sinon, il sera laissé libre, *à moins qu'en raison de puissants motifs de suspicion, une visite plus minutieuse paraisse devoir être exigée.*" [1]

Toute méthode doit se modifier en tenant compte des transformations subies par le matériel que les hommes ont à leur disposition, à la condition de rester une méthode humaine et civilisée.

L'Amirauté française estime qu'aujourd'hui un navire, pour être visité, doit être dérouté sur un port toutes les fois que l'état de la mer, la nature, le poids, le volume, l'arrimage de la cargaison suspecte, en même temps que l'obscurité et l'absence de précision des papiers de bord, rendent la visite en mer pratiquement impossible ou dangereuse pour le navire visité.

Au contraire, lorsque les circonstances inverses existent, la visite doit être faite en mer.

Le déroutement est également nécessaire et justifié, lorsque, le navire neutre entrant dans la zone ou le voisinage des hostilités, (1) il importe, dans l'intérêt même du navire neutre, d'éviter à ce dernier une série d'arrêts et de visites successives et de faire établir, une fois pour toutes, son caractère inoffensif et de lui permettre ainsi de continuer librement sa route sans être molesté; et (2) le belligérant, dans son droit de légitime défense, est fondé à exercer une surveillance particulière sur les navires inconnus qui circulent dans ces parages.

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seized; if not, she should be set free *unless by reason of strong grounds for suspicion a further search should seem to be requisite.*"

Every method must be modified having regard to the modifications of material which men have at their disposal, on condition that the method remains humane and civilized.

The French Admiralty considers that to-day a ship, in order to be searched, should be brought to a port whenever the state of the sea, the nature, weight, volume, and stowage of the suspect cargo, as well as the obscurity and lack of precision of the ship's papers, render search at sea practically impossible or dangerous for the ship searched.

On the other hand, when the contrary circumstances exist, the search should be made at sea.

Bringing the ship into port is also necessary and justified when, the neutral vessel having entered the zone or vicinity of hostilities, (1) it is a question, in the interests of the neutral ship herself, of avoiding for the latter a series of stoppages and successive visits and of establishing once for all her innocent character and of permitting her thus to continue her voyage freely and without being molested; and (2) the belligerent, within his rights of legitimate defence, is entitled to exercise special vigilance over unknown ships which circulate in these waters.

[1] Navy Department, General, No. 492, "Instruction to Blockading Vessels and Cruisers," paragraph 13.

9. The question of the locality of the search, is however, one of secondary importance. In the view of His Majesty's Government the right of a belligerent to intercept contraband on its way to his enemy is fundamental and incontestable, and ought not to be restricted to intercepting contraband which happens to be accompanied on board the ship by proof sufficient to condemn it. What is essential is to determine whether or not the goods were on their way to the enemy. If they were, a belligerent is entitled to detain them, and having regard to the nature of the struggle in which the allies are engaged they are compelled to take the most effectual steps to exercise that right.

10. The United States note then passes to the subject of the procedure in the prize courts, and maintains that courts of prize have hitherto been bound, by well-established and long-settled practice, to consider at the first hearing only the ship's papers and documents and the answers to the standing interrogatories, and to exclude all other evidence unless and until an order has been made for "further proof." Attention is drawn to the fact that the above practice, which had been followed by the British prize courts for over a century, and also by the prize courts of the United States, was changed by the prize court rules issued by His Majesty's Government at the outbreak of the present war. Upon this matter His Majesty's Government have to point out that they recognized some years ago that modern conditions had rendered the old rules obsolete, and new rules had been prepared under the guidance and supervision of the late Lord Gorell, whose experience as president of the Admiralty Division of the High Court of Justice rendered him well qualified to deal with the subject. Twenty months' experience of the working of the new rules in the prize court has served to show the utility of the changes.

11. It may further be pointed out that the practice and procedure adopted in prize courts are not settled or regulated by international law, but they are determined by each nation for itself. The procedure described in the United States note was gradually evolved in the British Courts, and, though it was adopted by the United States, it has never been followed in the prize courts of France or of any other continental nation, nor does the fact that the United States followed the British practice prevent Great Britain or any other of the allied nations from introducing such changes in the procedure as modern circumstances may call for. International law only requires that the practice in prize courts of the belligerent nation should afford a fair hearing to all claims put

forward by neutrals, and should enable the court to arrive at a just conclusion upon the evidence. Subject to that condition, each nation may regulate the practice to be followed in its prize courts. As an instance, the recent Italian Decree of 30th May, 1915, may be quoted in article 6 of which it is enacted that the prize court "will draw up rules of procedure for its future guidance." The division of prize court proceedings into two distinct phases, the first hearing and the hearing on further proof, under the early British and American practice, was merely a rule of procedure. Similarly the exclusion of extraneous evidence until the making of an order for further proof was only a rule of procedure. His Majesty's Government were, therefore, not only at liberty but felt bound to alter these rules so soon as they were advised that the rules were obsolete and might work injustice.

12. The old practice and procedure had become archaic in form and belonged to days long before the modern improvements in legal procedure were developed, days when, for instance, the parties interested were prevented from giving any evidence as witnesses in actions which affected their rights. The alterations in the prize court practice and rules were conceived and made in the spirit of those improvements. The objects with which the old practice was abolished were to prevent delay, to eliminate technicalities, and to enable the parties to prove all the true and material facts, and to place their respective cases fully before the court.

13. Moreover, it must be remembered that the conditions under which goods are conveyed by sea from one country to another have completely changed. In the days when the old rules were developed the ship's papers were a safe and satisfactory guide as to the nature and destination of the cargo. If the ship's papers had not indicated the true object and purpose of the consignment, the consignee would have been uncertain what to do with the goods when they arrived, and the commercial transaction would have been hampered, for there were in those days no fast mails or telegraph cables by which supplementary information could be conveyed. If there were no ship's papers, or if they obviously were not genuine, it was a ground for condemnation. When there was no reason to doubt them, the court could safely take the papers as indicating the real transaction. Nowadays the conditions have changed; the papers may outwardly be perfectly genuine and complete, yet they may have been prepared with the express purpose of concealing the real nature of the transaction. These misleading papers

would not, however, occasion any difficulty in dealing with the goods on their arrival, because the necessary instructions to the consignee can be conveyed by other means. Consequently the old rule that the papers on board the ship must alone be taken into consideration, and evidence from other sources excluded, is no longer practicable; indeed, the system of attributing to the ship's papers the character of final and conclusive proof upheld in the United States note would encourage shippers of contraband to falsify the papers, as they would thereby ensure absolute immunity from capture. It is in the same way due to change of circumstances that the evidence of the master and members of the crew has ceased to be of much importance in the majority of prize cases; they usually now know nothing of the real destination of the cargo they are transporting, and the more skillfully the dispatch of goods with an enemy destination is contrived, the more effectually will it be concealed from those on board.

14. It may be doubted whether any belligerent Government would be ready to forego the right of capture of goods on their way to an enemy in every case where such destination was not disclosed by the ship's papers or the evidence of those on board the ship. The difficulty which United States naval officers found even as early as 1862 in complying with the old rule is illustrated by the quotation from Lord Lyons' note of the 22d April, 1863, in connection with the case of the "Magicienne," one of the cases which is dealt with in the appendix to this note, in which he drew attention to the habit of the United States cruisers of seizing vessels on the chance that something might possibly be discovered *ex post facto* which would prevent the captors from being condemned to pay damages.

15. The contention advanced by the United States Government in paragraph 9 of their note, that the effect of this new procedure is to subject traders to risk of loss, delay, and expense so great and so burdensome as practically to destroy much of the export trade of the United States to neutral countries in Europe, is not borne out by the official statistics published in the United States—nor by the reports of the Department of Commerce. The first nine months of 1915 may be taken as a period when the war conditions must have been known to all those engaged in commerce in the United States of America, and when any injurious effects of the prize court procedure would have been recognized. During that period the exports from the United States of America to the three Scandinavian countries and Holland, the group of neutral countries

whose imports have been most affected by the naval operations of the allies and by the procedure adopted in their prize courts, amounted to 274,037,000 dollars as compared with 126,763,000 dollars in the corresponding period of 1913. It is useless to take into account the corresponding figures of 1914 because of the dislocation of trade caused by the outbreak of war, but taking the pre-war months of 1914, the figures for 1913, 1914, and 1915, were as follows:

1913	$97,480,000
1914	88,132,000
1915	234,960,000

16. In the face of such figures it seems impossible to accept the contention that the new prize court procedure in Great Britain has practically destroyed much of the export trade of the United States to neutral countries in Europe, and the inference is suggested that if complaints have been made to the administration of Washington by would-be exporters, they emanated not from persons who desired to engage in genuine commerce with the neutral countries, but from those who desired to dispatch goods to the enemy under cover of a neutral destination, and who found it more difficult to conceal the real facts from the prize courts under the new procedure.

17. At this point it would have been opportune to introduce a reply to the contention that appears at first sight to be advanced in paragraph 13 of the United States note that Great Britain, while interfering with foreign trade, has increased her own with neutral countries adjacent to Germany, but this is rendered unnecessary by the explanation given by Mr. Page at the time that he presented the note, and since confirmed by a statement given out to the press at Washington that no such meaning is to be attributed to the paragraph. Moreover, the subject has been dealt with in the note which Sir E. Grey sent to Mr. Page on the 13th August, last, and again in the note [1] given to the State Department by the British Ambassador at Washington on the 27th December.[2]

18. The next passage in the United States note (paragraph 14) relates to the principle of noninterference with goods intended to become incorporated in the mass of merchandise for sale in a neutral country, or, as it is more commonly known, with goods intended to be incorporated in the "common stock" of the country. The United States Government urge with some force that trade statistics are not by them-

[1] Page 64, *supra*.

[2] Not printed.

selves conclusive in establishing an enemy destination, and that such statistics require careful scrutiny. On the other hand, the mere fact that goods, no matter of what description or in what quantities, are ostensibly destined to form part of the common stock of a neutral country, can not be regarded as sufficient evidence to prove their innocence or to justify the assertion that any attempt to raise questions as to their ulterior destination is unwarranted and inquisitorial. It is a matter of common knowledge that large quantities of supplies have since the war broke out passed to our enemy through neutral ports. It was pointed out in Sir E. Grey's note of the 17th July, 1915, that it would be mere affectation to regard some of those ports as offering facilities only for the commerce of the neutral country in which they are situated. They have, in fact, been the main avenues through which supplies have reached the enemy from all parts of the world. In the case of goods consigned to these ports, the ships' papers convey no suggestion as to their ultimate destination, and every device which ingenuity can suggest, or which can be contrived by able and unscrupulous agents, is resorted to for the purpose of giving to carefully organized arrangements for supplying the enemy the appearance of genuine transactions with a neutral country. His Majesty's Government can not bring themselves to believe that it is the desire of the United States Government that traffic of this kind should be allowed to proceed without hindrance.

19. The question whether the goods despatched to a neutral port were intended to become part of the mass of merchandise for sale in that country is one of fact. Quite apart from the conclusions suggested by the figures, there is a considerable body of evidence that many of the goods which have been shipped to neutral ports during the war were never intended to become part of the common stock of that country, but were earmarked from the beginning for re-export to the enemy countries. If they had been intended to form part of the common stock they would have been available for use in that country; yet at one time in the early days of the allies' efforts to intercept all the commerce of the enemy, when they found it necessary to hold up certain cargoes of cotton on their way to Sweden, it transpired that though the quays and the warehouses of Gothenburg were congested with cotton, there was none available for the use of the spinners in Sweden.

20. Confirmation of the fact that many of the shipments to neutral ports were never intended to become part of the common stock of the country is also to be found in some of the contracts which have come to

light since the policy of intercepting all commodities on their way to or from the enemy country was introduced. One of those which has been disclosed is a contract with a firm in Germany for the sale of no less than 50,000 bales of cotton linters at a price which was about double that which linters were fetching in any other country than Germany. The whole quantity was to be shipped to neutral ports. Various shipments made under this contract have been held up, and in all cases the goods were shipped with papers and under conditions which concealed the enemy destination altogether. Sweden is not in normal times a large importer of cotton linters, and it certainly would not be reasonable to maintain that, because the ship's papers did not disclose this contract of sale or the enemy destination, shipments of linters under this contract should be regarded as intended to become part of the mass of merchandise for sale in Sweden.

21. However sound the principle that goods intended for incorporation in the common stock of a neutral country should not be treated as contraband may be in theory, it is one that can have but little application to the present imports of the Scandinavian countries. The circumstances of a large number of these shipments negative any conclusion that they are *bona fide* shipments for the importing countries. Many of them are made to persons who are apparently nominees of enemy agents, and who never figured before as importers of such articles. Consignments of meat products are addressed to lightermen and dock laborers. Several thousands of tons of such goods have been found documented for a neutral port and addressed to firms which do not exist there. Large consignments of similar goods were addressed to a baker, to the keeper of a small private hotel, or to a maker of musical instruments. Will it be contended that such imports ought to be regarded as *bona fide* shipments intended to become part of the common stock of the country?

22. Similarly several of the shipments which the allied naval forces are now obliged to intercept consist of goods for which there is in normal circumstances no sale in the importing country, and it has already been pointed out in a recent decision in the British prize court that the rule about incorporation in the common stock of a neutral country can not apply to such goods. The same line was taken in some of the decisions in the United States prize courts during the Civil War.

23. In the presence of facts such as those indicated above, the United States Government will, it is believed, agree with His Majesty's Government that no belligerent could in modern times submit to be bound by a

rule that no goods could be seized unless they were accompanied by papers which established their destination to an enemy country, and that all detentions of ships and goods must uniformly be based on proofs obtained at the time of seizure. To press any such theory is tantamount to asking that all trade between neutral ports shall be free, and would thus render nugatory the exercise of sea power and destroy the pressure which the command of the sea enables the allies to impose upon their enemy.

24. It is, of course, inevitable that the exercise of belligerent rights at sea, however reasonably exercised, must inconvenience neutral trade, and great pressure is being put upon the United States Government to urge the technical theory that there should be no interference at all with goods passing between neutral ports, and thus to frustrate the measures which the allies have taken to intercept commerce on its way to or from the enemy. It may not be out of place to recall that the position is somewhat similar to that which arose in the United States in the war between the North and the South. All students of international law and of military history are aware that the blockade of the Southern States was the most important engine of pressure possessed by the North, and that it was on the point of being rendered ineffective through the use by blockade runners of neutral ports of access. It is well known that the United States Government took immediate steps to stop such trade, and that the United States Supreme Court extended the doctrine of continuous voyage so as to cover all cases where there was an intention to break the blockade by whatever means, direct or indirect.

25. The configuration of the European coast is such as to render neutral ports the most convenient for the passage of German commerce, and just as it was essential to the United States in the Civil War to prevent their blockade from being nullified by the use of neutral ports of access, so it is essential to the Allied Powers to-day to see that the measures which they are taking to intercept enemy commerce shall not be rendered illusory by the use of similar ports. The instructions issued by Mr. Seward during the Civil War show that he regarded the continuance of the blockade against the Southern States as absolutely vital, and he repeatedly instructed American representatives abroad to assure foreign governments that, while he was fully alive to the great inconveniences caused by the cutting off of the supplies of cotton from Europe, yet he could not, as American Secretary of State, "sacrifice the Union for cotton." The American representatives in Europe in their published

reports again and again expressed the opinion that, whatever might be the policy of the Government, the peoples of Europe would never consent to side with the Power that upheld slavery against the Power which represented freedom. Their opinion was entirely justified by the result, and in fact neither the French nor the English Governments took any decided steps toward breaking the blockade, in spite of the tremendous pressure which was brought to bear upon them, and the terrible suffering of the cotton operatives of this country. Indeed, President Lincoln himself acknowledged, in a message to the laboring classes of Manchester, his high sense of the spirit of self-sacrifice which they had exhibited in their policy toward America. His Majesty's Government have, of course, no desire to enter upon any examination of the issues involved in that historic conflict, but no one will question the respect which is due to the determination then shown by the French and British peoples not to range themselves on what they believed to be the side of slavery or consent to action which they held might be fatal to the democratic principle of government, however great the pressure exerted by commercial interests might be.

26. His Majesty's Government desire to assure the United States Government that every effort is being made to distinguish between *bona fide* neutral commerce and that which is really intended for the enemy. The task is one of exceptional difficulty, and the statistics show that a great volume of imports intended for the enemy must have passed through adjacent neutral countries during the war. As an instance, the imports of lard into Sweden during the year 1915 may be taken. In that year the total import of lard into Sweden from all sources was 9,318 tons, of which no less than 9,029 tons came from the United States. In the three years before the war, 1911–13, the annual average import of the same article was only 888, of which 638 tons came from the United States. It is difficult to believe that the requirements of Sweden in respect of lard, even when every allowance is made for possible diversions of trade due to the war, could suddenly have increased more than tenfold in 1915. The inference, indeed, is irresistible that the greater part of these imports must have had another and an enemy destination.

27. It may readily be conceded that the efforts to intercept enemy commerce passing through neutral countries can not fail to produce some soreness and dissatisfaction. His Majesty's Government have therefore spared no pains in their endeavor to mitigate the inconvenience which must inevitably be occasioned to neutral traders. In pursuance of this

object they are resorting to the policy of ascertaining the total requirements of the country concerned, and intercepting such imports as may be presumed, because they are in excess of those requirements, to form no part of the normal trade of the country, and therefore to be destined for the enemy.

28. The total net imports of a particular commodity by any country in normal times give a satisfactory index to its requirements, and where these are provided for on a generous scale, suitable allowance being made for the commercial dislocation inseparable from a state of war, it is not unfair, after eighteen months of war and in the light of the experience which has now been gained, to invite the prize court to regard with suspicion further consignments of any kind of goods of which the imports have already exceeded a figure ample to satisfy the country's requirements.

29. It ought not to be difficult to arrive at a satisfactory understanding with all parties on the subject, as the official statistics afford information not only as to the quantities of particular commodities required by neutral countries, but also of the sources from which they are usually obtained. Arrangements of this nature will be of great service in removing the friction and misunderstanding which now arise, as it will help the commercial classes in the neutral countries to form an idea of the limits within which their trading operations are not likely to encounter difficulty.

30. The adoption of such a system, although not unattended by difficulty, has been greatly facilitated by agreements made with the organizations which control imports in the neutral countries, as well as by arrangements with some of the shipping lines, and with several of the interests concerned in the import of particular commodities from neutral countries. His Majesty's Government intend to avail themselves of every opportunity which may present itself in order to bring about a more extended adoption of this equitable system.

31. Moreover, the fact that a neutral country adjacent to the enemy territory is importing an abnormal quantity of supplies or commodities, of which her usual imports are relatively small, of which the enemy stands in need and which are known to pass from that neutral country to the enemy, is by itself an element of proof on which the prize court would be justified in acting, unless it is rebutted by evidence to the contrary. Hostile destination being a question of fact, the court should take all the relevant circumstances into consideration in arriving at

its decision, and there seems to be no reason in principle for limiting the facts at which the court is entitled to look in a case of this kind.

32. The second section of the United States note (paragraphs 16-24) deals with the validity of the measures against enemy commerce which were embodied in the British Order in Council of the 11th March, 1915, and in the French Decree of the 13th March, and maintains that these measures are invalid, because they do not comply with the rules which have been gradually evolved in the past for regulating a blockade of enemy ports, and which were summarized in concrete form in articles 1–21 of the Declaration of London.

33. These rules can only be applied to their full extent to a blockade in the sense of the term as used in the Declaration of London. His Majesty's Government have already pointed out that a blockade which was limited to the direct traffic with enemy ports would in this case have but little, if any, effect on enemy commerce, Germany being so placed geographically that her imports and exports can pass through neutral ports of access as easily as through her own. However, with the spirit of the rules, His Majesty's Government and their allies have loyally complied in the measures they have taken to intercept German imports and exports. Due notice has been given by the allies of the measures they have taken, and goods which were shipped or contracted for before the announcement of the intention of the allies to detain all commerce on its way to or from the enemy countries have been treated with great liberality. The objects with which the usual declaration and notification of blockade are issued have therefore been fully achieved. Again, the effectiveness of the work of the allied fleets under the orders referred to is shown by the small number of vessels which escape the allied patrols. It is doubtful whether there has ever been a blockade where the ships which slipped through bore so small a proportion to those which were intercepted.

34. The measures taken by the allies are aimed at preventing commodities of any kind from reaching or leaving Germany, and not merely at preventing ships from reaching or leaving German ports. His Majesty's Government do not feel, therefore, that the rules set out in the United States note need be discussed in detail. The basis and the justification of the measures which the allies have taken were dealt with at length in Sir E. Grey's note of the 23rd July,[1] and there is no need to repeat what was there said. It need only be added that the rules ap-

[1] See Special Supplement for July, 1915, p. 157.

plicable to a blockade of enemy ports are strictly followed by the allies in cases where they apply—as, for instance, in the blockades which have been declared of the Turkish coast of Asia Minor or of the coast line of German East Africa.

35. Some further comment is perhaps necessary upon the statements made in paragraph 19 of the United States note, where it is said that, because German coasts are open to trade with Scandinavian countries, the measures of the allies fail to comply with the rule that a blockade must be effective. It is no doubt true that commerce from Sweden and Norway reaches German ports in the Baltic in the same way that commerce still passes to and from Germany across the land frontiers of adjacent states, but this fact does not render the measures which France and Great Britain are taking against German trade the less justifiable. Even if these measures were judged with strict reference to the rules applicable to blockades, a standard by which, in their view, the measures of the allies ought not to be judged, it must be remembered that the passage of commerce to a blockaded area across a land frontier or across an inland sea has never been held to interfere with the effectiveness of the blockade. If the right to intercept commerce on its way to or from a belligerent country, even though it may enter that country through a neutral port, be granted, it is difficult to see why the interposition of a few miles of sea as well should make any difference. If the doctrine of continuous voyage may rightly be applied to goods going to Germany through Rotterdam, on what ground can it be contended that it is not equally applicable to goods with a similar destination passing through some Swedish port and across the Baltic or even through neutral waters only? In any case, it must be remembered that the number of ships reaching a blockaded area is not the only test as to whether it is maintained effectively. The best proof of the thoroughness of a blockade is to be found in its results. This is the test which Mr. Seward, in 1863, when Secretary of State, maintained should be applied to the blockade of the Confederate States. Writing to Mr. Dayton, the United States Minister in Paris, on the 8th March, he said: "But the true test of the efficiency of the blockade will be found in its results. Cotton commands a price in Manchester and in Rouen and Lowell four times greater than in New Orleans. * * * Judged by this test of results, I am satisfied that there never was a more effective blockade." Similar language was used in the despatch to Mr. Adams in London. The great rise in price in Germany of many articles, most necessary to the enemy in the prose-

cution of the present war, must be well known to the United States Government.

36. Attention is drawn in the same paragraph to the fact that cotton has since the measures announced on the 11th March been declared to be contraband, and this is quoted as an admission that the blockade is ineffective to prevent shipments of cotton from reaching the enemy countries. The reason for which cotton was declared to be contraband is quite simple. Goods with an enemy destination are not, under the Order in Council, subject to condemnation; they are restored to the owner. Evidence accumulated that it was only for military purposes that cotton was being employed in Germany. All cotton was laid under embargo, and its use in the textile factories was prohibited except in very special cases or by military permission. In these circumstances it was right and proper that cotton with an enemy destination should be subjected to condemnation and not merely prevented from passing, and it was for this reason that it was declared to be contraband. The amount of cotton reaching the enemy country has probably not been affected in the least by its being made contraband on the 20th August, as supplies from overseas had been cut off effectually before that date. Even the "Konfektionär," a German technical paper, dealing with the textile industry, admitted in its issue of the 1st July that not a gramme of cotton had found its way into Germany for the preceding four weeks.

37. Before leaving the question of the validity of the measures which France and Great Britain have taken against enemy commerce, reference must be made to the statement made in the 33rd paragraph of the United States note that "the curtailment of neutral rights by these measures, *which are admittedly retaliatory, and therefore illegal,* cannot be admitted. His Majesty's Government are quite unable to admit the principle that to the extent that these measures are retaliatory they are illegal. It is true that these measures were occasioned and necessitated by the illegal and unjustifiable proclamation issued by the German Government on the 4th February, 1915, constituting the waters surrounding Great Britain, including the whole English Channel, a "war zone," into which neutral vessels would penetrate at their peril, and in which they were liable to be sunk at sight. This proclamation was accompanied by a memorandum alleging that the violation of international law by Great Britain justified the retaliatory measures of the German Government owing to the acquiescence of neutrals in the action of this country. The legitimacy of the use of retaliatory measures was

thus admitted by the Germans, although His Majesty's Government and their allies strongly deny the facts upon which their arguments were based. But although these measures may have been provoked by the illegal conduct of the enemy, they do not, in reality, conflict with any general principle of international law, of humanity, or civilization; they are enforced with consideration against neutral countries, and are therefore juridically sound and valid.

38. The more abstract question of the legitimacy of measures of retaliation adopted by one belligerent against his opponent, but affecting neutrals also, is one of which His Majesty's Government think the discussion might well be deferred. It is a subject of considerable difficulty and complexity, but His Majesty's Government are surprised to notice that the Government of the United States seem to regard all such measures of retaliation in war as illegal if they should incidentally inflict injury upon neutrals. The advantage which any such principle would give to the determined law-breaker would be so great that His Majesty's Government can not conceive that it would commend itself to the conscience of mankind. To take a simple instance, suppose that one belligerent scatters mines on the trade routes so as to impede or destroy the commerce of his enemy—an action which is illegitimate and calculated to inflict injury upon neutrals as well as upon the other belligerents—what is that belligerent to do? Is he precluded from meeting in any way this lawless attack upon him by his enemy? His Majesty's Government can not think that he is not entitled by way of retaliation to scatter mines in his turn, even though in so doing he also interferes with neutral rights. Or take an even more extreme case. Suppose that a neutral failed to prevent his territory being made use of by one of the belligerents for warlike purposes, could he object to the other belligerent acting in the same way? It would seem that the true view must be that each belligerent is entitled to insist on being allowed to meet his enemy on terms of equal liberty of action. If one of them is allowed to make an attack upon the other regardless of neutral rights, his opponent must be allowed similar latitude in prosecuting the struggle, nor should he in that case be limited to the adoption of measures precisely identical with those of his opponent.

39. The third section of the United States note deals with the question of the means of redress which are open to United States citizens for any injury or loss which they suffer as the consequence of an unjustifiable exercise of the belligerent rights of the allies. The contention put for-

ward in these paragraphs appears to be that there is no obligation on neutral individuals who maintain they have been damnified by the naval operations of the belligerents to appeal to the prize courts for redress, because the prize courts are fettered by municipal enactments which are binding upon them, whereas the very question which those individuals wish to raise is the validity of such enactments when tested by the canons of international law.

40. These arguments seem to be founded on a misunderstanding of the situation, and to overlook all that was said in Sir E. Grey's note of the 23rd July on this subject. The extract there quoted from the decisions given by Lord Stowell shows that in Great Britain the prize court has jurisdiction to pronounce a decision on the very point which the United States note indicates, viz., whether an order or instruction to the naval forces issued by His Majesty's Government is inconsistent with those principles of international law which the court is bound to apply in deciding cases between captors and claimants, and is entitled, if satisfied that the order is not consistent with those principles, to decline to enforce it. The jurisdiction of the prize court in Great Britain therefore affords every facility to a United States citizen whose goods are detained and dealt with under the Order in Council of the 11th March to take his case to the prize court and there claim that the order under which the naval authorities have acted is invalid, and that its enforcement entitles him to redress and compensation.

41. In some matters, it is true, that the prize court is bound by the municipal enactments of its own country. It is the territorial sovereign who sets up the court, and who therefore determines the matters which are incidental to its establishment. His Majesty's Government have already pointed out that each country determines for itself the procedure which its prize courts shall adopt; but certainly under the British system—and His Majesty's Government were under the impression that, in this matter, the United States had taken the same course—the substantive law which the court applies as between captor and claimant consists of the rules and principles of international law, and not the municipal legislation of the country. If reference is made to the case of the *Recovery* (6 C. Rob. 341), it will be seen that Lord Stowell refused to enforce in the prize court against a neutral the British Navigation Laws.

42. Sir E. Grey's note of the 23rd July was intended to make this point clear, and so far from having intended to "give the impression that

His Majesty's Government do not rely upon its soundness or strength," His Majesty's Government wish to lay stress on the fact that the principle that no encroachment should be made upon the jurisdiction and the competence of the prize court is one which they regard as vital.

43. Apart from the cases where a question may arise as to the validity of orders or instructions on which naval actions was based, circumstances frequently give rise to claims for compensation on behalf of individuals who consider they have suffered unjustly from the exercise of rights *jure belli*, as, for instance, from the delay in releasing their ships or so forth. His Majesty's Government desire, therefore, to repeat what was said in Sir E. Grey's note of the 10th February, that the British prize court rules give the court ample jurisdiction to deal with any claims for compensation by a neutral arising from the interference with a ship or goods by the naval forces.

44. His Majesty's Government attach the utmost importance to the maintenance of the rule that, when an effective mode of redress is open to individuals in the courts of a civilized country by which they can obtain adequate satisfaction for any invasion of their rights, recourse must be had to the mode of redress so provided before there is any scope for diplomatic action. This is the course which His Majesty's Government have always themselves endeavored to follow in previous wars in which Great Britain has been neutral, and they have done so because it is the only principle which is correct in theory and which operates with justice and impartiality between the more powerful and the weaker nations. To that principle His Majesty's Government propose to adhere now that they are themselves the belligerent, and that it is against them that the claims are advanced.

45. Enquiry has been made into the four cases of the *Magicienne*, the *Don José*, the *Labuan*, and the *Saxon*, mentioned in the United States note (paragraph 27) as instances during the American Civil War where His Majesty's Government put forward, through the diplomatic channel, claims for damages for seizure and detention of British ships alleged to have been made without legal justification. In two of these instances it is said at the time the demands were made the cases were before the American prize courts for adjudication. The results of the enquiry are contained in an appendix to this note. The cases have there been dealt with in some detail because they are cited as indicating that it was the practice of Her Majesty's Government during the American Civil War to claim through the diplomatic channel damages for seizures of

British ships alleged to have been made without legal justification. The cases do, in fact, establish the very proposition for which His Majesty's Government are now contending, viz., that in the cases where the prize court has power to grant relief there is no ground for putting forward claims through the diplomatic channel. In two of the cases the United States Government themselves discontinued the prize court proceedings and admitted the right to compensation, and in the others they maintained the jurisdiction of the prize court, and Her Majesty's Government acquiesced.

46. The statements contained in paragraph 31 of the United States note have led to a careful review of the practice which is now followed in the British courts with regard to vessels and cargoes which are released. It has been ascertained that in the case of vessels brought in for examination and allowed to proceed without discharging any part of their cargo no dues are charged. Where part of the cargo is discharged and passes into the jurisdiction of the prize court, the terms of the release are, of course, subject to the control of the court, and His Majesty's Government are therefore hardly in a position to give any definite undertaking with regard to the incidence of the expenses and charges which may have been incurred. In general, however, they realize that, in cases where goods are released and it transpires that there were no sufficient grounds for their seizure, no dues or charges should fall upon the owner. The statement that waivers of the right to put forward claims for compensation are exacted as a condition of release is scarcely accurate, but they are prepared to concede that such waivers would be a hardship to the owners of the goods released. In these circumstances His Majesty's Government will abstain from exacting any such undertakings in future, and will not enforce those which have already been given.

47. Attached to the United States note are voluminous appendices containing lists of various vessels of all nationalities whose cargoes have been examined by the naval forces of the allies. These lists are a strong testimony to the vigor and effectiveness with which the naval forces are carrying out the measures which the allies have deemed it necessary to take against the commerce of their enemies. Perhaps the most striking conclusion which can be drawn from these lists is the rapidity with which the vessels are released and the very small amount of loss and inconvenience to which they are, as a rule, exposed.

48. Into the facts of each particular case His Majesty's Government

feel sure the Government of the United States will agree that there is no need for them to enter, for the lists comprise only ships dealt with by the British authorities; no corresponding lists are given of those dealt with by the French forces, and a detailed examination of these cases would be of no assistance in explaining the general principles which are being followed and which are common to both the allies. Furthermore, any discussion of the cases in this note might prejudice the chances of the claimants of recovering compensation through the prize court in cases where they consider that they are entitled to redress.

49. Finally His Majesty's Government desire to assure the United States Government that they will continue their efforts to make the exercise of what they conceive to be their belligerent rights as little burdensome to neutrals as possible. Some suggestions have already been referred to in this note which, it is believed, would have that effect, and they are quite ready to consider others. For instance, they have already appointed an impartial and influential commission to examine whether any further steps could be taken to minimize the delays involved in the present methods of dealing with neutral vessels. Again, it has been suggested that it would be a great commercial convenience if neutral shippers knew, before they made arrangements for ship space and for financing their consignments, whether they would be held by up belligerent patrols. A scheme is already in operation which ought to succeed in accomplishing this object. Other suggestions of a like nature might perhaps be made, and the allied governments would be prepared to give favorable consideration to any proposal for the alleviation of the position of neutrals, provided that the substantial effectiveness of the measures now in force against enemy commerce would not be thereby impaired.

50. His Majesty's Government are of opinion that it is to such mitigations that the allies and the neutrals concerned should look for the removal of the difficulties now encountered rather than to abrupt changes either in the theory or application of a policy based upon admitted principles of international law carefully adjusted to the altered conditions of modern warfare. Some of the changes which have been advocated would, indeed, if adopted in their entirety, render it impossible for the allies to persist with effect in their endeavors to deprive the enemy of the resources upon which he depends for the prosecution of operations carried on both by land and sea with complete disregard of the claims of humanity; for instance, the practice of visiting exclusively

at sea, instead of in port, vessels reasonably suspected of carrying supplies to the enemy, or, again, the adoption of the principle that goods notoriously destined for the enemy may not be intercepted if they happen to be carried by a neutral vessel and addressed to a neutral consignee could not fail to have this result.

51. His Majesty's Government have noted with sincere satisfaction the intimation contained in the concluding passages of the United States note of the intention of the United States to undertake the task of championing the integrity of neutral rights. The first act of this war was the unprovoked invasion by the enemy of neutral territory—that of Belgium—which he was solemnly pledged by treaty to protect. The occupation of this territory was accompanied by abominable acts of cruelty and oppression in violation of all the accepted rules of war, atrocities the record of which is available in published documents; the disregard of neutral rights has since been extended to naval warfare by the wanton destruction of neutral merchant ships on the high seas, regardless of the lives of those on board. In every theatre and in each phase of the war has been visible the same shocking disregard by the enemy of the rights of innocent persons and neutral peoples. His Majesty's Government would welcome any combination of neutral nations, under the lead of the United States, which would exert an effective influence to prevent the violation of neutral rights, and they cannot believe that they or their allies have much to fear from any combination for the protection of those rights which takes an impartial and comprehensive view of the conduct of this war and judges it by a reasonable interpretation of the generally accepted provisions of international law and by the rules of humanity that have hitherto been approved by the civilized world.

Appendix.

Cases of the "Magicienne," the "Don José," the "Labuan," and the "Saxon."

1. The *Magicienne* was captured on the 27th January, 1863, about 400 miles from the Cape Verde Islands, while on a voyage to Matamoros. She was taken to Key West and released on the 2nd March, the district attorney of the United States stating that he could see nothing in the depositions, invoices, and other papers on which to base a demand for condemnation or even for a certificate of probable cause of seizure. On the 3rd April Lord Lyons was instructed to ask for com-

pensation, and did so in a note to Mr. Seward, dated the 22nd April. In reply, Mr. Seward admitted that compensation ought to be made. The course of procedure suggested by Mr. Seward was adopted, and ultimately the compensation was fixed at 8,645 dollars. No suggestion was made that any other mode of redress was open to the injured party or that it was not a case where compensation should be asked for through the diplomatic channel. On the contrary, the admission that the seizure was illegal was made by the United States, and Mr. Seward himself admitted that compensation should be made.

2. The *Don José* was a small British schooner of 35 tons, which was captured on the 2nd July, 1863, off Cuba, when on a voyage to Havana. She was released on the 15th July because the district attorney was unable, on examination of the ship's papers and of the depositions of the witnesses, to find any grounds on which to file a libel against the vessel. On the 2nd January, 1864, Lord Lyons wrote a note to Mr. Seward, pointing out that the seizure appeared to have been one of a very unjustifiable character, and saying that he hoped that the United States Government would have no difficulty in admitting that compensation was due. Mr. Seward, in his reply, admitted that the case seemed to be a strong one. On the 18th May Lord Lyons again pressed for compensation and based his claim upon the ground that the United States law officer could find no ground for bringing the case before the prize court, and that it must be presumed that the court, if the case had come before it, would, in the execution of its duty, have awarded costs and damages. Mr. Seward promised to give the matter attentive consideration. He does not appear to have suggested that the claimant could himself have applied to the prize court for compensation, or to have challenged the point urged by Lord Lyons that it was the failure of the United States authorities to bring the case before the prize court which deprived the court of the opportunity of awarding redress.

3. The case of the *Labuan* gave rise to a voluminous diplomatic correspondence. She was a British steamer which was seized by the United States steamer *Portsmouth* on the 1st February, 1862, when lying off the mouth of the Rio Grande within the limits of the port of Matamoros and probably therefore within the territorial waters of Mexico. She had landed a cargo of British goods and was loading a cargo of cotton and other articles. Copies of the reports which Lord Lyons had received as to this case were given to Mr. Seward privately with a suggestion that the United States Government might perhaps think it advisable

to release the vessel and give her compensation without subjecting the vessel to judicial proceedings. In another unofficial communication Mr. Seward admitted that a perusal of the information in the Navy Department had not satisfied him that the capture was legal, but preferred that nothing should be done until a judicial decision had been given. The official correspondence that ensued dealt mainly in its earlier stages with the contention urged by Her Majesty's Government that unless the United States Government were going to maintain that the capture was justifiable and valid, it was unreasonable to expose the parties interested to the delay and the expense of judicial proceedings. The United States Government, however, insisted that the case must take its course in the prize court, and in the circumstances Her Majesty's Government could only acquiesce. The trial took place on the 20th May in the District Court at New York, when the immediate release of vessel and cargo was ordered, and the question of damages against the captors reserved for consideration. The subsequent official correspondence was occupied chiefly with the delays in getting the damages assessed. As early as the 9th April, 1863, Mr. Seward wrote to Lord Lyons a note reviewing the whole correspondence, in which he said "I freely admit that I believe the claimants entitled to damages and cost," but he maintained that it was regular and legal to wait for the court to decree them, and that the court would decide the question with more exact justice than could the Executive Government. The period which elapsed before the prize court dealt with the damages payable certainly justified the complaints which Lord Lyons was instructed to make, for the decree awarding 141,902 dollars was not issued until March, 1868, more than six years after the capture, nor was the sum paid until a further period of over two years had elapsed.

4. The case of the *Saxon* also gave rise to a voluminous diplomatic correspondence, but I am at a loss to know what ground there can be for citing the action of Her Majesty's Government in this case as a precedent for maintaining the right of a Government to ignore the prize court and to claim compensation through the diplomatic channel. The *Saxon* was seized on the 29th October, 1863, by the United States ship *Vanderbilt* while lying at anchor off Penguin Island, on the coast of South Africa. Some confusion occurred at the time of capture, and the mate of the *Saxon* was shot dead by an officer of the *Vanderbilt*. The vessel was sent to New York, and arrived there on the 22nd December. Some doubt seems to have arisen as to why the vessel had been

captured, and Lord Lyons was instructed by Lord Russell early in 1864 to ask the United States Government either to direct the immediate release of the *Saxon*, with proper compensation to the owners, or at least to explain the ground on which her seizure and detention were supposed to be justified. Meanwhile further information had come into the possession of Her Majesty's Government, and on the 15th February Lord Lyons was instructed, on the advice of the law officers of the Crown, that Her Majesty's Government saw no ground for seeking to withdraw the case from the jurisdiction of the prize court. On the 7th March Judge Betts, in the District Court at New York, decreed the restitution of the vessel and cargo free of all costs, charges, and expenses, reserving for future consideration the question of probable cause of seizure. Lord Lyons was subsequently informed that Her Majesty's Government saw no reason to complain of this sentence. They understood the question of damages still to be open, but they were not prepared to say that, if these should be refused, there would, in the peculiar circumstances of the case, be any necessity for an official complaint on their part. The only suggestion which Her Majesty's Government made through the diplomatic channel as to payment of compensation was a request that some relief might be granted to the widow of the mate of the *Saxon* who was shot by an officer of the *Vanderbilt*, but the request was refused with asperity.

The Secretary of State to the British Ambassador.

DEPARTMENT OF STATE,
Washington, May 10, 1916.

EXCELLENCY: I have the honor to acknowledge the receipt of Your Excellency's note of April 22, 1916,[1] in which you refer to the fact that your Government, in December last, promised not to detain certain vessels belonging to the American Transatlantic Company, unless they should carry contraband, pending the decision of the British Prize Court in the cases of the steamer *Hocking* and the steamer *Genesee* which also belong to this company, and in which you state that Sir Edward Grey has instructed you to inform me that the vessels which have not been seized can no longer enjoy immunity from seizure unless certain assurances respecting their use are given by the company.

[1] Not printed.

These vessels are owned by an American corporation organized under laws which presumably are similar to British laws respecting incorporation. In the name of this corporation these vessels were registered under the American flag, in accordance with laws which it is understood by this Government are similar to British laws governing registration of vessels under the British flag. Under the laws of the United States, the American Transatlantic Company is regarded as a citizen of the United States and must doubtless be so regarded in accordance with the custom of nations.

British Prize Court decisions in relation to the ownership of different kinds of property, including vessels, appear to make it clear that a British corporation is British in character regardless of what the political nationality of its shareholders may be.

This Government has observed that in a recent case a British Prize Court, applying an apparently well-established rule, condemned a vessel flying the German flag and refused an application of neutral claimants to establish that they were the beneficial owners of the vessel, owning the entire capital stock of the nominal owners, a subsidiary concern established according to the laws of Germany. The court ruled that the fact sought to be proved would not benefit the claimants.

This Government has also observed that the British authorities have in several instances requisitioned vessels flying the British flag, although the entire beneficial interest in them was owned by American citizens, and in connection with requests on the part of such beneficial owners, for the release of such vessels, the British Government apparently has taken the position that the vessels, flying the British flag and being owned by British corporations, must, of course, be regarded as British and not as American vessels.

It appears, therefore, from different cases of the character just mentioned, that the British judicial and administrative authorities have as a rule attached no importance to beneficial ownership in determining the nationality of the vessels owned by corporate organizations but have uniformly proceeded on the theory that nationality in each case must be determined by the flag the vessels fly or by their corporate ownership.

On the other hand, the British authorities in now seeking to condemn the ships of the American Transatlantic Company, which are owned by an American corporation and fly the American flag, on the ground, as they state, that they believe these vessels to be entirely, or to a large extent, enemy owned, apparently attach great importance to

beneficial ownership and no importance to the flag or corporate ownership.

In this relation it should be observed that the company has presented to this Government evidence to show that all the company's stock is owned by American citizens. This Government has no information that the stock is not so owned.

Having in mind these and other facts as well as the applicable principles of international law, the seizure of these vessels appeared to this Government arbitrary and unwarranted. However, after having informed the British Government to that effect, this Government decided to let the matter rest after receiving from the British Government a promise that they were, in the language of a note addressed by Sir Edward Grey to the American Ambassador at London, "willing not to capture the remaining ships of the company, unless they were found to be carrying contraband, until the Prize Court has given a decision in the cases which are now pending, provided of course that the proceedings in court are not unduly prolonged by the defendants." The owners of the vessels have informed the Department that they have complied strictly with the British Government's conditions, and the Department has no information to the contrary.

If any one of these vessels should carry contraband, the British Government would be warranted in exercising their belligerent right to detain such vessel. But the carrying of contraband by one of these vessels would, of course, furnish no legal justification for interference with other vessels carrying innocent cargoes, and the observance by the British Government of the express language of their promise respecting the immunity of these vessels would prevent any such interference.

I observe from your note that you have been instructed by Sir Edward Grey to inform me that "the immunity from capture at present enjoyed by the American Transatlantic Company's vessels can only be continued provided that an assurance is given by the company that the vessels will not trade with Scandinavia or Holland."

Under these circumstances, before giving further consideration to the matters referred to in your note I would like to be informed whether, as would appear from your note, it is the intention of the British Government to repudiate their promise respecting the treatment of these vessels which in good faith has been relied on by this Government and by the owners of these vessels.

I am, etc., ROBERT LANSING.

The Acting Secretary of State to Ambassador W. H. Page.

[Telegram.]

DEPARTMENT OF STATE,
Washington, July 26, 1916.

You are instructed to deliver to Sir Edward Grey a formal note on the subject of the Enemy Trading Act, textually as follows:

The announcement that His Britannic Majesty's Government has placed the names of certain persons, firms, and corporations in the United States upon a proscriptive "blacklist" and has forbidden all financial or commercial dealings between them and citizens of Great Britain has been received with the most painful surprise by the people and Government of the United States, and seems to the Government of the United States to embody a policy of arbitrary interference with neutral trade against which it is its duty to protest in the most decided terms.

The scope and effect of the policy are extraordinary. British steamship companies will not accept cargoes from the proscribed firms or persons or transport their goods to any port, and steamship lines under neutral ownership understand that if they accept freight from them they are likely to be denied coal at British ports and excluded from other privileges which they have usually enjoyed, and may themselves be put upon the blacklist. Neutral bankers refuse loans to those on the list and neutral merchants decline to contract for their goods, fearing a like proscription. It appears that British officials regard the prohibitions of the blacklist as applicable to domestic commercial transactions in foreign countries as well as in Great Britain and her dependencies, for Americans doing business in foreign countries have been put on notice that their dealings with blacklisted firms are to be regarded as subject to veto by the British Government. By the same principle Americans in the United States might be made subject to similar punitive action if they were found dealing with any of their own countrymen whose names had thus been listed.

The harsh and even disastrous effects of this policy upon the trade of the United States and upon the neutral rights upon which it will not fail to insist are obvious. Upon the list of those proscribed and in effect shut out from the general commerce of the world may be found American concerns which are engaged in large commercial operations as importers of foreign products and materials and as distributors of American products and manufactures to foreign countries and which constitute im-

portant channels through which American trade reaches the outside world. Their foreign affiliations may have been fostered for many years, and when once broken can not easily or promptly be reëstablished. Other concerns may be put upon the list at any time and without notice. It is understood that additions to the proscription may be made "whenever on account of enemy nationality or *enemy association* of such persons or bodies of persons it appears to His Majesty expedient to do so." The possibilities of undeserved injury to American citizens from such measures, arbitrarily taken, and of serious and incalculable interruptions of American trade are without limit.

It has been stated on behalf of His Majesty's Government that these measures were aimed only at the enemies of Great Britain and would be adopted and enforced with strict regard to the rights of neutrals and with the least possible detriment to neutral trade, but it is evident that they are inevitably and essentially inconsistent with the rights of the citizens of all the nations not involved in war. The Government of the United States begs to remind the Government of His Britannic Majesty that citizens of the United States are entirely within their rights in attempting to trade with the people or the Governments of any of the nations now at war, subject only to well-defined international practices and understandings which the Government of the United States deems the Government of Great Britain to have too lightly and too frequently disregarded. There are well-known remedies and penalties for breaches of blockade, where the blockade is real and in fact effective, for trade in contraband, for every unneutral act by whomsoever attempted. The Government of the United States can not consent to see those remedies and penalties altered or extended at the will of a single power or group of powers to the injury of its own citizens or in derogation of its own rights. Conspicuous among the principles which the civilized nations of the world have accepted for the safeguarding of the rights of neutrals is the just and honorable principle that neutrals may not be condemned nor their goods confiscated except upon fair adjudication and after an opportunity to be heard in prize courts or elsewhere. Such safeguards the blacklist brushes aside. It condemns without hearing, without notice, and in advance. It is manifestly out of the question that the Government of the United States should acquiesce in such methods or applications of punishment to its citizens.

Whatever may be said with regard to the legality, in the view of international obligation, of the act of Parliament upon which the practice

of the blacklist as now employed by His Majesty's Government is understood to be based, the Government of the United States is constrained to regard that practice as inconsistent with that true justice, sincere amity, and impartial fairness which should characterize the dealings of friendly Governments with one another. The spirit of reciprocal trade between the United States and Great Britain, the privilege long accorded to the nationals of each to come and go with their ships and cargoes, to use each the other's shipping, and be served each by the other's merchants is very seriously impaired by arbitrary and sweeping practices such as this. There is no purpose or inclination on the part of the Government of the United States to shield American citizens or business houses in any way from the legitimate consequences of unneutral acts or practices; it is quite willing that they should suffer the appropriate penalties which international law and the usage of nations have sanctioned; but His Britannic Majesty's Government can not expect the Government of the United States to consent to see its citizens put upon an *ex parte* blacklist without calling the attention of His Majesty's Government, in the gravest terms, to the many serious consequences to neutral right and neutral relations which such an act must necessarily involve. It hopes and believes that His Majesty's Government, in its natural absorption in a single pressing object of policy, has acted without a full realization of the many undesired and undesirable results that might ensue.

POLK.

Part III–A.

CASE OF THE AMERICAN STEAMSHIP JOSEPH W. FORDNEY IN BRITISH PRIZE COURT.

The Secretary of State to Ambassador W. H. Page.

[Telegram.]

Department of State,
Washington, April 14, 1915.

Department informed American steamer *Joseph W. Fordney,* which sailed from New York March twentieth, was seized four miles off Norwegian coast and in charge of prize crew brought into Kirkwall April eighth. Ship's manifest, copy of which has been furnished Department, shows cargo consists entirely of cattle fodder consigned to E. Klingener, Malmo, Sweden. It appears from other information presented to Department, affidavit regarding character and destination of cargo made by President of Atlantic Export Company of New York, shipper of entire cargo, was attached to bill of lading; that this affidavit contained certification of British Consul General and Swedish Consul and also a statement by latter to effect that exportation from Sweden of goods of which cargo consist is prohibited. It further appears vessel was loaded under supervision British consular officers, who sealed her hatches prior to sailing. Department from information in its possession is strongly inclined to believe that proper examination of the vessel has not disclosed evidence of any illegal shipment, and that seizure of the vessel is another illustration of the deplorable disregard of rights of American shippers by British naval authorities. If vessel is still held on receipt of this telegram, communicate with foreign office in sense of the foregoing and request immediate release of vessel if examination has not revealed evidence she carried contraband shipment.

Bryan.

Ambassador W. H. Page to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
London, April 19, 1915.

Foreign Office informs me British Government have decided to discharge the cargo on *Joseph W. Fordney* on ground that it is believed to be intended for Germany.

PAGE.

The Secretary of State to Ambassador W. H. Page.

[Telegram.]

DEPARTMENT OF STATE,
Washington, April 27, 1915.

Department, presuming that you, of course, delivered to Foreign Office a communication in the language of Department's 1421, April 14, is surprised that British Government should furnish no more satisfactory reply than that contained in your telegram under acknowledgment. This Government must insist that the legal rights of American shippers be respected. The information presented to the Department regarding the character and destination of the cargo of the steamer *Joseph W. Fordney* prompted the Department's belief that examination of her would not disclose evidence of illegal shipments warranting her seizure. This Government therefore felt justified in requesting the release of the vessel in case such evidence had not been disclosed. From the statement received from the British Government regarding the seizure of the vessel this Government is confirmed in its conclusion that such evidence has not been disclosed and that, therefore, the seizure of the vessel is unwarranted.

Bring matter again to the attention British Government with a view to obtaining satisfactory statement from them regarding the apparently unwarranted and illegal seizure of this vessel.

BRYAN.

Ambassador W. H. Page to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
London, April 27, 1915.

Foreign Office informs me that British Government never had any intention of seizing the *Joseph W. Fordney*, but that, as the result of enquiries, they have decided to detain her cargo under Order in Council of March eleven on ground that the ostensible consignee does not exist at the port to which the bills of lading were made out.

PAGE.

Ambassador W. H. Page to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
London, May 4, 1915.

Mr. Page says he has requested the Legation at Stockholm to make investigation of the matter of the consignee of cargo of *Joseph W. Fordney* at Malmo. He states that it is the understanding that the firm of E. Klingener does not appear as existing at Malmo, but does exist at Gothenburg. He states that he will immediately present facts to the British Government and request the release of the vessel and cargo in case E. Klingener has branch house at Malmo.

Ambassador W. H. Page to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
London, May 18, 1915.

My 1998, April twenty-seventh, and 2029, May fourth, re *Joseph W. Fordney.*

Replying to my representations Foreign Office informs me: "Apart from the uncertainty of the address of the consignee of the cargo of this

vessel, Mr. E. Klingener, His Majesty's Government have evidence that the cargo was not destined for bona fide Swedish consumption, but was intended for Germany and that the proper course of the consignees is to make application to the Prize Court."

PAGE.

The Secretary of State to Ambassador W. H. Page.

[Telegram.]

DEPARTMENT OF STATE,
Washington, May 21, 1915.

With reference to statement in your telegram that Foreign Office has informed you suspicious conduct of steamer *Joseph W. Fordney* in endeavoring to elude British patrol boat has tended to confirm evidence cargo was intended for Germany,[1] you may inform British Government persons interested in vessel having previously been informed regarding this allegation have transmitted to Department affidavit of Captain of vessel to the effect that he made no effort to evade British patrol ship and that no other officer at any time said anything to him indicating that he had not obeyed orders promptly or had not been absolutely frank in his statements.

BRYAN.

Consul General Skinner to the Secretary of State.

[Telegram.]

AMERICAN CONSULATE GENERAL,
London, June 12, 1915.

Writ issued yesterday against owner goods on *Joseph W. Fordney.*

SKINNER.

Ambassador W. H. Page to the Secretary of State.

No. 1873.] AMERICAN EMBASSY,
London, July 26, 1915.

SIR: Adverting to the cablegraphic instructions from the Depart-

[1] See first two paragraphs of memorandum enclosed in despatch of May 20, 1915, from Ambassador Page, confirming his telegram of May 19, 1915, printed *supra*, p. 58.

ment No. 1596 of June 21, in regard to the American S. S. *Joseph W. Fordney*, instructing me to inform British Government to the effect that an affidavit of the Captain of the vessel had been received, stating that he had made no effort to elude the British patrol boat, I now have the honor to enclose herewith, for the information of the Department, a copy of a note which I have received from Sir Edward Grey in reply to my representations in the premises.

I have, etc.,

WALTER HINES PAGE.

[Inclosure.]

The British Secretary of State for Foreign Affairs to Ambassador W. H. Page.

No. 95233/15.] FOREIGN OFFICE,
July 24th, 1915.

YOUR EXCELLENCY: With reference to your note of May 22nd relative to the American S. S. *Joseph W. Fordney* I have the honour to transmit herewith for Your Excellency's information a summary of a report which has been submitted to the Admiralty by the Commanding Officer of H. M. S. *Teutonic* respecting the circumstances attending the interception of this vessel on the 6th of April last.

I think Your Excellency will admit that this report constitutes a sufficient basis for the statement made in the first paragraph of my memorandum of May 14th, which the Master of the vessel is now endeavoring to controvert.

I have, etc.,

(For the Secretary of State)
EYRE A. CROWE.

[Subinclosure.]

Summary of Report of Commanding Officer of H. M. S. Teutonic.

At 3.50 a. m. on April 6th 1915, H. M. S. *Teutonic* sighted the American Steamer *Joseph W. Fordney* bearing S. E. (Magnetic) and steaming on a Southerly Course. H. M. S. *Teutonic* at that time was steering S. 77° E., speed 13 knots, and course was altered and telegraphs put to full speed to intercept the steamer, the White Ensign being hoisted at the

peak and signal to stop engines also hoisted. The Steamer was then seen to alter course and appeared to be steaming full speed. At 4.0 a. m. course was altered to S. 27° E. At 4.20 a. m. H. M. S. *Teutonic* having overhauled the *Joseph W. Fordney*, an alphabetical signal "We have no Code Book" was made by the latter. An alphabetical signal "Stop" was then made by H. M. S. *Teutonic*, and the Boarding Officer was alongside the S. S. *Joseph W. Fordney* at 5.15 a. m.

The Master of S. S. *Joseph W. Fordney* stated in conversation with the Officer in Charge of the Armed Guard, that he had been promised a bonus of about one thousand dollars if he got through without being sent to Kirkwall from the time charterers as a recompense for the money saved to them if the delay of the vessel being sent to Kirkwall for examination was obviated. He also stated that he altered course towards the land for territorial waters to avoid being intercepted.

Ambassador W. H. Page to the Secretary of State.

No. 2299.] AMERICAN EMBASSY,
London, October 8, 1915.

SIR: I have the honor to inclose herewith for the information of the Department, a copy of a communication [1] addressed to the embassy by Mr. Arthur Garfield Hays, the representative of Messrs. Phelps Brothers, of New York, on September 7th in reference to the proceedings involved in the case of the S. S. *Joseph W. Fordney*, together with a copy of a note, dated October 6th, which has been received from the Foreign Office in regard thereto.

I have, etc.,

WALTER HINES PAGE.

[Inclosure.]

The British Secretary of State for Foreign Affairs to Ambassador W. H. Page.

No. 139116/15.] FOREIGN OFFICE,
London, October 6, 1915.

YOUR EXCELLENCY: I did not fail to refer to His Majesty's Procurator General the note and enclosure which you were good enough to address

[1] Not printed.

to me on the 17th ultimo in regard to the proceeding involved in the case of the S. S. *Joseph W. Fordney*, and I now have the honor to inform Your Excellency that the Procurator General, having carefully investigated the circumstances in which the cargo of this vessel was shipped and having given full weight to the evidence available, came to the conclusion that the proper course was to apply for an order for the condemnation of the cargo.

With regard to the misunderstanding which appears to have arisen between Mr. Hays and the Procurator General in connection with this case, I have the honor to say that it was originally proposed to deal with the cargo under the Order in Council of March 11th, because the evidence only showed that the goods were intended for Germany, but as His Majesty's Government now have reason to believe that they were for the enemy Government or its armed forces, proceedings for condemnation are being taken on that ground.

Your Excellency will remember that as long ago as December last, when it was originally arranged that Your Excellency should be informed of cases of the detention of ships carrying cargoes shipped from the United States with an indication of the grounds of detention, it was expressly emphasized at the time that this undertaking would not be understood as debarring His Majesty's Government from raising additional grounds for proceeding against a cargo or ship in the Prize Court if they subsequently came to light, and Your Excellency was good enough to accept this view.

I have, etc. E. GREY.

The Secretary of State to Ambassador W. H. Page.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, November 3, 1915.

Mr. Page is informed that the Department's original supposition that the seizure of the cargo of the *Joseph W. Fordney* by the British Authorities was an illegal act is confirmed by the note of October sixth from the British Foreign Office to Mr. Page since the goods were seized without probable cause and on suspicion. Only in case these goods were consigned to the German Government or to the armed forces of Germany

were they subject to seizure. It is observed by the Department that the British Foreign Office states that as His Majesty's Government now have reason to believe that the goods were for the enemy Government or its armed forces, condemnation proceedings on that ground are being taken. It appears that approximately one-half a year after the goods were seized it is believed by the British Authorities that they are in possession of such evidence as alone would have justified the seizure.

The pertinency to the matter under discussion of the statement made by the British Foreign Office pointing out that when arrangements were made that the American Ambassador should be informed in regard to the detention of ships and indicating the ground upon which such ships were detained, emphasis was made that it was not to be understood that this undertaking debarred the Government of Great Britain from raising additional grounds for Prize Court proceedings against a ship or cargo. If due examination of the vessel at the time of its seizure did not disclose adequate evidence warranting the seizure of the goods, of course the cargo could not be lawfully seized and therefore subsequent proceedings in the Prize Court could not be lawful.

Mr. Page is directed to communicate with the British Foreign Office in the sense of the foregoing and to make renewed request for the release of the cargo of the vessel in view of the fact that it would appear from the statement of the British Government that the cargo was illegally seized.

Ambassador W. H. Page to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
London, November 27, 1915.

Foreign Office reply that British Government regret that they are unable to depart from their intention to continue proceedings for condemnation of cargo of *Joseph W. Fordney* in the Prize Court. Sir Edward Grey adds that he will advise me on a later date regarding the general principles raised in connection with this cargo, as he is of opinion that they can be more adequately dealt with in conjunction with matters

brought to his notice in my note of November sixth, embodying your instruction October twenty-first.[1]

PAGE.

The Secretary of State to Ambassador W. H. Page.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, April 13, 1916.

Mr. Lansing informs Mr. Page that according to information received by the Department of State from the representatives of the shippers of the cargo on board the S. S. *Joseph W. Fordney*, viz, the Atlantic Export Company, which information was transmitted to these representatives by English lawyers who stated that the new Order in Council of the thirtieth of March last, bearing upon conditional contraband, is construed by the authorities of Great Britain to be retroactive in its nature. It will therefore be applied to the S. S. *Fordney's* cargo and in other United States cases soon to be tried. It is stated by these representatives that such proceedings would be equivalent to a denial of justice in the case of the cargo of the *Fordney*. As to the unwarranted nature of these proceedings, the State Department is in full accord with the shipper's views. The views of the Department have been known to the Government of Great Britain through Mr. Page, that there could be no legal seizure of the cargo nor legal proceedings of a prize court following it if a proper examination which warranted the taking of the goods under discussion was not brought to light by a proper examination of the *Fordney* at the time it was seized. Furthermore, evidence of the illegal destination of a cargo which was discovered, according to statements of the British Government regarding the S. S. *Fordney*, about half year after the seizure occurred, can not justify the seizure of a vessel. The British Government has made no reply justifying such a course.

Mr. Page is instructed to communicate the foregoing matter to the Foreign Office and say that the United States Government considers itself entitled to receive from the Government of Great Britain a statement with regard to their views as to how such a seizure and prize court procedure relating to it are warranted by the evidence submitted.

[1] Printed *supra*, p. 73.

Ambassador W. H. Page to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
London, May 9, 1916.

Your 3194, April thirteenth, re *Joseph W. Fordney*. Foreign Office informs me in reply to my representations that the general considerations which I submitted in accordance with Department's 3194 as to evidence on which a prize court may properly be asked to act were dealt with in the memorandum which was presented to United States Government by British Ambassador in Washington on April twenty-fourth [1] and that as to the particular case of the *Joseph W. Fordney*, as has already been intimated, the British Government must decline to enter into any discussion of points which are awaiting decision in a case pending in the prize court. It is further stated that it is of course open to the claimants to submit to the court any of the considerations advanced in my note based on Department's 3194 on which they may desire to rely.

PAGE.

[1] Printed *supra*, p. 120.

Part IV.

SUBMARINE WARFARE.

(Continuation of correspondence printed in Special Supplement, July, 1915, pp. 83–101, 129–141, 149–153, 155–157.)

1. CORRESPONDENCE WITH GERMANY REGARDING SUBMARINE INTERFERENCES WITH COMMERCIAL VESSELS.

Ambassador Gerard to the Secretary of State.

[Telegram—Paraphrase.]

American Embassy,
Berlin, May 9, 1915.

Ambassador Gerard transmits to the Department the following statement, which he says was received at 5.30 to-day from the German Foreign Office, relative to attacks made by mistake on neutral vessels of commerce by German submarines:

First. Imperial German Government has naturally no intention of causing to be attacked by submarines or air craft such neutral ships of commerce in the zone of naval warfare, more definitely described in the notice of the German Admiralty staff of February 4 last, as have been guilty of no hostile act; on the contrary, the most definite instructions have repeatedly been issued to German war vessels to avoid attacks on such ships under all circumstances. Even when such ships have contraband of war on board, they are dealt with by submarines solely according to the rules of international law applying to prize warfare.

Two. Should a neutral ship, nevertheless, come to harm through German submarines or air craft on account of an unfortunate (* * *)[1] in the above-mentioned zone of naval warfare, the German Government will unreservedly recognize its responsibility therefor. In such a case it will express its regrets and afford damages without first instituting a prize court action.

Three. It is the custom of the German Government as soon as the sinking of a neutral ship in the above mentioned zone of naval warfare

[1] Apparent omission.

is ascribed to German war vessels to institute an immediate investigation into the cause. If grounds appear thereby to be given for assuming such a hypothesis, the German Navy places itself in communication with the interested neutral government, so that the latter may also institute an investigation. If the German Government is thereby convinced that the ship has been destroyed by German war vessels, it will not delay in carrying out the provisions of paragraph two above. In case the German Government, contrary to the viewpoint of the neutral government, is not convinced by the result of the investigation, the German Government has already on several occasions declared itself ready to allow the question to be decided by an international investigation commission according to chapter three of The Hague Convention of October 18, 1907, for the peaceful solution of international disputes.

GERARD.

Ambassador Gerard to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Berlin, July 12, 1915.

Following memorandum just received from the Foreign Office:

Memorandum relative to the damaging of the American steamer *Nebraskan* by a German submarine:

The German Government received from newspaper reports the intelligence that the American steamer *Nebraskan* had been damaged by a mine or torpedo on the southwest coast of Ireland. It therefore started a thorough investigation of the case without delay, and from the result of the investigation it has become convinced that the damage to the *Nebraskan* was caused by an attack by a submarine.

On the evening of May 25 last the submarine met a steamer bound westward without a flag and with no neutral markings on her freeboard about 35 nautical miles west of Fastnet Rock; no appliance of any kind for the illumination of the flag or markings was to be seen. In the twilight, which had already set in, the name of the steamer was not visible from the submarine. Since the commander of the submarine was obliged to assume, from his wide experience in the area of maritime war, that only English steamers, and no neutral steamers, traversed this war area without flag and markings, he attacked the vessel with a torpedo in the conviction that he had an enemy vessel before him. Some time after the shot the commander saw that the vessel had in the meantime hoisted the American flag. As a consequence he of course refrained from any further attack. Since the vessel remained afloat he had no

occasion to concern himself further with the boats which had been launched.

It results from this, without a doubt, that attack on the steamer *Nebraskan* was not meant for the American flag; nor is it traceable to any fault on the part of the commander of the German submarine, but is to be considered an unfortunate accident. The German Government expresses its regret at the occurrence to the Government of the United States of America and declares its readiness to make compensation for the damage thereby sustained by American citizens.

As in the case of the steamer *Gulflight*, the German Government begs to suggest that the American Government submit to it a detailed statement of such damage or, if doubt might arise as to certain points, to designate an expert to fix the amount of compensation, acting in conjunction with a German expert.

GERARD.

Consul Dennison to the Secretary of State.

[Telegram.]

AMERICAN CONSULATE,
Dundee, July 26, 1915.

American steamer *Leelanaw*, of New York, from Archangel to Belfast, with flax, torpedoed and sunk by German submarine on twenty-fifth. Whole crew landed at Kirkwall this morning in their own boats. Have instructed consular agent to send them on to Dundee immediately.

DENNISON.

Consul General Skinner to the Secretary of State.

[Telegram.]

AMERICAN CONSULATE GENERAL,
London, July 26, 1915.

American ship *Leelanaw*, returning from Archangel to home port with flax for Belfast, Ireland, torpedoed and sunk by German submarine twenty-fifth. Entire crew landed Kirkwall this morning in own boats.

SKINNER.

Consul General Skinner to the Secretary of State.

[Telegram.]

AMERICAN CONSULATE GENERAL,
London, July 27, 1915.

Leelanaw crew proceeding to Dundee. Captain torpedoed ship states agent Kirkwall he had ample time leave his ship before being fired on. Crew went on board submarine and remained some time, ship's boats being taken in tow for about fifty miles.

SKINNER.

Ambassador W. H. Page to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
London, July 27, 1915.

Sir Edward Grey to-day communicated to me the following message which he stated had been received by him from the British Admiralty:

With reference to the American ship *Leelanaw* crew propose leaving Kirkwall for Aberdeen July 27. Vessel was flying American flag. Crew were told they might take their time to leave the ship and save their effects. Submarine towed their boats toward Orkney Islands; cast off the tow on another steamer being sighted.

PAGE.

Consul Dennison to the Secretary of State.

[Telegram.]

AMERICAN CONSULATE,
Dundee, July 28, 1915.

Leelanaw's crew here all safe. Sail Saturday *Saint Paul.* Master under oath states sighted German submarine July twenty-fifth, sixty miles northwest Orkneys. Endeavored to escape. Fired on at distance two miles, shot falling short; hove to and stopped. Submarine signalled for ship's papers, which were sent. After examining them submarine signalled abandon ship. Ample time given crew to leave

ship. Five shots then fired at *Leelanaw* without effect, followed by torpedo. Crew then taken on submarine with lifeboats in tow, after which two more shots were fired, last one setting fire to ship. Submarine headed towards Orkneys. *Leelanaw* was seen to sink one hour twenty minutes later. Eight-thirty another steamer being seen approaching, crew ordered to boats, in which they proceeded remainder distance to Kirkwall, arriving six thirty following morning. *Leelanaw* laden with flax and tow only. Before leaving submarine master demanded ship's papers. Request refused, his register, customs manifest, and bills of lading being retained. Master has no complaint of treatment on submarine.

DENNISON.

The Secretary of State to Ambassador Gerard.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, July 31, 1915.

Ambassador Gerard is directed to obtain and forward to the Department of State a full report of facts relating to the sinking of the American ship *Leelanaw,* together with certified copies of the ship's papers.

Ambassador W. H. Page to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
London, August 19, 1915.

Mr. Page informs Mr. Lansing that he has just received word that the steamer *Arabic* of the White Star Line was torpedoed at nine o'clock this morning and sank in eleven minutes. He reports that fifteen lifeboats from the vessel are proceeding to Liverpool, and that he will send details of the incident as soon as possible.

The German Ambassador to the Secretary of State.

[Telegram.]

NEW YORK, *August 24, 1915.*

I am instructed by my government to communicate the following to you:

So far no official information about the sinking of the *Arabic* is available. The Imperial Government trusts that the Government of the United States will not take a definite stand after only hearing the reports coming from one side, which, according to the opinion of my government, cannot possibly correspond with the facts, but will give the Imperial Government a chance to be heard equally. Although my government does not doubt the good faith of the witnesses whose statements have been published by the newspapers in Europe my government thinks that it should be borne in mind that such statements have naturally been made in great excitement which might easily produce a wrong impression. In case Americans should actually have lost their life this would naturally be contrary to the intention of the German Government, who would deeply regret this fact and has instructed me to extend its sincerest sympathy to the Government of the United States.

May I ask you to be good enough to publish the above or to kindly let me know whether you agree to my publishing it?

J. BERNSTORFF.

The German Ambassador to the Secretary of State.

GERMAN EMBASSY,
Washington, September 1, 1915.

MY DEAR MR. SECRETARY:

With reference to our conversation of this morning I beg to inform you that my instructions concerning our answer to your last *Lusitania* note contain the following passage:

Liners will not be sunk by our submarines without warning and without safety of the lives of noncombatants, provided that the liners do not try to escape or offer resistance.

Although I know that you do not wish to discuss the *Lusitania* question till the *Arabic* incident has been definitely and satisfactorily settled, I desire to inform you of the above because this policy of my Government was decided on before the *Arabic* incident occurred.

I have no objection to your making any use you may please of the above information.

I remain, etc., J. BERNSTORFF.

The German Ambassador to the Secretary of State.

[Translation.]

J. Nr. A 5476.] GERMAN EMBASSY,
Cedarhurst, N. Y., September 4, 1915.

Mr. SECRETARY OF STATE: On the 25th of last month an English merchant vessel fired on a German submarine in the Irish Sea without any challenge of any kind.

On the 18th of the same month a German submarine was fired on in Bristol Channel by an English passenger steamer that had been summoned to stop.

By direction of my Government I have the honor to bring those cases to Your Excellency's notice in order again to lay stress on the point that British merchant vessels which attack German submarines of course expose themselves to the danger of destruction; American citizens who travel on such vessels do so on their own responsibility and incur the greatest risk.

Accept, etc., J. BERNSTORFF.

Ambassador Gerard to the Secretary of State.

AMERICAN EMBASSY,
Berlin, September 7, 1915.

Foreign Office sends me the following report of the sinking of the *Arabic*, with the request that it be brought to the knowledge of the American Government:

On the 19th of August a German submarine stopped the English steamer *Dunsley* about 60 nautical miles south of Kinsale and was on

the point of sinking the prize by gun fire after the crew had left the vessel. At this moment the commander saw a large steamer making directly toward him. This steamer, which, as developed later, was identical with the *Arabic*, was recognized as an enemy vessel, as she did not fly any flag and bore no neutral markings. When she approached she altered her original course, but then again pointed directly toward the submarine. From this the commander became convinced that the steamer had the intention of attacking and ramming him. In order to anticipate this attack he gave orders to have the submarine submerge and fired a torpedo at the steamer. After firing he convinced himself that the people on board were being rescued in 15 boats.

According to his instructions the commander was not allowed to attack the *Arabic* without warning and without saving lives unless the ship attempted to escape or offered resistance. He was forced to conclude from the attendant circumstances that the *Arabic* planned a violent attack on the submarine. This conclusion was all the more obvious, as he had been fired upon at a great distance in the Irish Sea on August 14—that is, a few days before—by a large passenger steamer apparently belonging to the British Royal Mail Steam Packet Company, which he had neither attacked or stopped.

The German Government most deeply regrets that lives were lost through the action of the commander. It particularly expresses this regret to the Government of the United States on account of the death of American citizens. The German Government is unable, however, to acknowledge any obligation to grant indemnity in the matter, even if the commander should have been mistaken as to the aggressive intentions of the *Arabic*. If it should prove to be the case that it is impossible for the German and the American Government to reach a harmonious opinion on this point, the German Government would be prepared to submit the difference of opinion as being a question of international law to The Hague tribunals, pursuant to Article 38 of The Hague Convention for the Pacific Settlement of International Disputes. In so doing it assumes that as a matter of course the arbitral decision shall not be admitted to have the importance of a general decision on the permissibility or the converse under international law of German submarine warfare. Berlin, September 7, 1915.

GERARD.

Ambassador Gerard to the Secretary of State.

No. 1507.] AMERICAN EMBASSY,

Berlin, September 11, 1915.

SIR: With reference to my telegram of the 10th instant, No. 2867,[1] I

[1] Not printed.

have the honor to transmit herewith a copy and translation of the note received from the Imperial Foreign Office dated September 9, 1915, inclosing the report of the attack on the steamer *Orduna* by a German submarine.

I have, etc., JAMES W. GERARD.

[Inclosure—Translation.]

The German Minister for Foreign Affairs to Ambassador Gerard.

FOREIGN OFFICE,
Berlin, September 9, 1915.

The undersigned has the honor to transmit herewith to His Excellency, Mr. James W. Gerard, Ambassador of the United States of America, in reply to the notes of July 27 and September 1, 1915, F. O. 4444 and 4959, a memorandum relative to the attack by a German submarine on the English passenger steamer *Orduna*.

The undersigned avails himself, etc., VON JAGOW.

[Subinclosure—Translation.]

MEMORANDUM.

At about quarter past seven on the morning of July 9 last a German submarine sighted a steamer from 3 to 5 miles away and a sailing vessel about a mile away. The steamer was proceeding without any flag or neutral markings and was taken for a small enemy steamer by the commander of the submarine on account of the difficulty of observation caused by the unfavorable weather. The commander decided first to attack the steamer submerged and fired a torpedo at the vessel which missed its mark.

Hoping to catch the steamer above the water, the submarine rose and chased the steamer on the surface. The steamer did not stop when a shot of warning was fired, and therefore several shells were fired at her which did not strike her, as the submarine was pitching about and the distance was great. The submarine then proceeded to the sailing vessel, which was shown to be the American bark *Normandie*, bound from New York to Liverpool with a cargo of lumber. Although the cargo contained

contraband, the sailing vessel was permitted to continue her voyage unhindered, as it was impossible to guarantee that the crew would be surely rescued in the small boats if the ship were sunk.

The first attack on the *Orduna* by a torpedo was not in accordance with the existing instructions, which provide that large passenger steamers are only to be torpedoed after previous warning and after the rescuing of passengers and crew. The failure to observe the instructions was based on an error, which is at any rate comprehensible, and the repetition of which appears to be out of the question, in view of the more explicit instructions issued in the meantime. Moreover, the commanders of the submarines have been reminded that it is their duty to exercise greater care and to observe carefully the orders issued.

Berlin, September 9, 1915.

The Secretary of State to Ambassador Gerard.

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 14, 1915.

You are instructed to deliver to the Foreign Office the following summary of the evidence[1] on file in the Department in regard to the sinking of the *Arabic.*

(1) It is generally agreed that the course of the *Arabic* drew her nearer to the *Dunsley* from the time the *Dunsley* and *Arabic* sighted each other until about the time the *Arabic* was torpedoed. (Affidavits of Master, First, Second, and Third Officers, Mess steward and seamen of *Dunsley;* affidavits of Captain and Second Officer of the *Arabic;* unsworn statements of three American passengers.) The Officers of the *Dunsley* agree that the *Arabic* altered her course somewhat toward the *Dunsley,* but that her course was variable or zig-zag. (Affidavits of Master, 1st, 2d, and 3d officers and Mess Steward and one Seaman of the *Dunsley;* affidavits of Captain and 2nd officer of *Arabic;* affidavit of one American Passenger.) The Third officer stated that the *Arabic* began the zig-zag course four miles away from the *Dunsley.* Though the *Arabic* at times

[1] The text of the evidence is printed in an appendix, *infra,* p. 203.

necessarily pointed toward the *Dunsley*, at the time the torpedo struck she was moving away from the *Dunsley*. (Affidavit of Captain and Second Officer of *Arabic*, third officer of *Dunsley*, and one passenger of unknown nationality and unsworn statement of one American passenger.)

(2) The passengers on the *Arabic* variously estimated that the *Arabic* approached the *Dunsley* to within one to five miles. (Affidavits of 3 American passengers; unsworn statements of three American passengers and one passenger of unknown nationality.) While the *Dunsley* was sighted several miles away, the officers of that vessel estimated that the *Arabic* approached to one and a half to three miles from the *Dunsley*. (Affidavits of Master, 1st and 2nd officers.) And one *Dunsley* seaman swore the first distance was only one half mile. The affidavits of the Captain and the 2nd Officer of the *Arabic* agree that the *Arabic* did not approach nearer than two miles to the *Dunsley*.

(3) It appears that the submarine after shelling the *Dunsley* and after sighting the *Arabic* hid behind the *Dunsley* and submerged before the explosion of the torpedo which sank the *Arabic*. (Affidavits of Master, 1st and 2nd officers, mess steward, and one seaman of *Dunsley*.)

(4) Witnesses are in agreement that the submarine was not seen from the *Arabic* (affidavits of the Captain and 2nd Officer of the *Arabic*, affidavits of 3 American passengers and unsworn statement of passenger of unknown nationality), and that the *Arabic* could not have seen the submarine from its position behind the *Dunsley* prior to submerging. (Affidavit of 2nd Officer of the *Dunsley*.)

(5) All agree that the *Arabic* received no warning. (Affidavit of 6 American passengers and two passengers of unknown nationality, and the unsworn statements of four American passengers and two passengers of unknown nationality, and the affidavits of Captain and 2nd Officer of the *Arabic*.)

(6) The torpedo was first seen by the passengers at an estimated distance of 150 to 300 yards away. (Affidavit of passenger of unknown nationality; unsworn statements of two American passengers and one passenger of unknown nationality.) The Captain of the *Arabic*, however, swears that the air bubbles and the torpedo were only 300 feet away when he saw them. (It appears that Consul Washington at Liverpool, in conversation with Captain Finch and the Second Officer of the *Arabic*, learned that they saw bubbles of air at the time they first noticed the torpedo, which were taken to indicate the air escaping at the time the

torpedo was expelled from the tube, and that therefore the submarine was supposed to have been only 300 feet from the *Arabic* and about 2 miles from the *Dunsley*, when the torpedo was fired. Consul Washington's three telegraphic reports of August 24th.)

(7) All agree that the torpedo struck the *Arabic* near the stern on the starboard side. (Affidavit of Captain, 2nd officer of *Dunsley*, and two American passengers and a passenger of unknown nationality, and unsworn statement of one American passenger.)

From a diagram made by the Second Officer of the *Arabic*, who observed the approach of the torpedo from the navigating bridge, the course of the torpedo was almost at right angles to the course of the *Arabic*.

The German Ambassador to the Secretary of State.

GERMAN EMBASSY,
Washington, October 5, 1915.

MY DEAR MR. SECRETARY:

Prompted by the desire to reach a satisfactory agreement with regard to the *Arabic* incident my Government has given me the following instructions:

The orders issued by His Majesty the Emperor to the commanders of the German submarines—of which I notified you on a previous occasion—have been made so stringent that the recurrence of incidents similar to the *Arabic* case is considered out of the question.

According to the report of Commander Schneider of the submarine that sank the *Arabic*, and his affidavit as well as those of his men, Commander Schneider was convinced that the *Arabic* intended to ram the submarine. On the other hand, the Imperial Government does not doubt the good faith of the affidavits of the British officers of the *Arabic*, according to which the *Arabic* did not intend to ram the submarine. The attack of the submarine, therefore, was undertaken against the instructions issued to the commander. The Imperial Government regrets and disavows this act and has notified Commander Schneider accordingly.

Under these circumstances my government is prepared to pay an indemnity for the American lives which to its deep regret have been

lost on the *Arabic*. I am authorized to negotiate with you about the amount of this indemnity.

I remain, etc., J. BERNSTORFF.

The Secretary of State to the German Ambassador.

DEPARTMENT OF STATE,
Washington, October 6, 1915.

MY DEAR MR. AMBASSADOR: I beg to acknowledge the receipt of your note of yesterday informing me that orders to the commanders of the German submarines have been made so stringent that the recurrence of incidents similar to the *Arabic* case is considered out of the question; that the attack on the *Arabic* was undertaken against the instructions issued to the Commander of the submarine; and that the Imperial Government regrets and disavows this act and has notified Commander Schneider accordingly. Furthermore, you advise me that your Government is prepared to pay an indemnity for the loss of American lives and that you are authorized to negotiate with me in regard to this indemnity.

In reply I hasten to inform you that I have noted with satisfaction the above assurances of your Government, and I am now prepared to negotiate with you concerning the amount of the indemnity. Steps will be taken at once to come in touch with the interested persons, after which I shall be pleased to communicate with you further in this matter.

I am, etc., ROBERT LANSING.

Ambassador Gerard to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Berlin, October 19, 1915.

Ambassador Gerard reports receipt of a note from the German Foreign Office dated October 16th, relating circumstances of destruction of the *Leelanaw* and citing in justification of the German submarine's commander the Declaration of London and German prize ordinance. In

addition, the note acknowledges applicability of treaty as in the case of the American vessel *Frye*, and states that the *Leelanaw's* papers have been sent to the Hamburg Prize Court, which will pass upon the case. Ambassador Gerard also reports that interested American parties are stated to be represented before the Prize Court.

Ambassador Gerard to the Secretary of State.

No. 1672.] AMERICAN EMBASSY,
Berlin, October 19, 1915.

With reference to the Department's telegram No. 2022, dated July 31st, 1915, 3 p. m., and to my telegram of even date, No. 3023, I have the honor to transmit herewith a translation of a note received to-day from the Imperial Foreign Office, dated October 16, 1915, relating the facts of the sinking of the American steamer *Leelanaw* by a German submarine on July 25th, 1915.

I have, etc.,

J. W. GERARD.

[Inclosure—Translation.]

No. IIIa. 17397.
153453.

FOREIGN OFFICE,
Berlin, October 16, 1915.

NOTE VERBALE.

The Foreign Office has the honor to make the following reply to the note verbale of the Embassy of the United States of America, dated August 2, 1915, F. O. No. 4536, relative to the sinking of the American steamer *Leelanaw*.

The steamer mentioned was stopped by a German submarine at 2.10 o'clock on the afternoon of July 25, 1915, in 59 degrees 55 minutes latitude north, and 4 degrees 22 minutes longitude west. According to the ship's papers, she was on a voyage from Archangel to Belfast; the cargo consisted of flax. The commander of the submarine considered the cargo contraband and decided accordingly to sink the vessel and cargo.

He saw to it that the crew of the vessel was safely taken ashore and took the ship's papers of the steamer *Leelanaw* on board the submarine.

Under Article 21, number 22 of the German Prize Ordinance as amended by the Ordinance of April 18, 1915 (*Reichs-Gesetzblatt*, p. 227), flax is to be considered absolute contraband. The Ordinance of April 18, 1915, was communicated to the Embassy of the United States of America by note verbale of April 22, 1915 (IIIa. 8434), with the request that the contents be brought to the knowledge of the American Government. It was possible therefore for the shippers and captain of the steamer *Leelanaw* to have knowledge of the German contraband regulations. The goods were destined for an English port; thus the contraband was liable to seizure without further formality (*vide* Article 30 of the German Prize Ordinance; Article 31 of the Declaration of London). According to value and bulk, the contraband formed more than half the whole cargo; consequently the vessel herself was liable to confiscation (*vide* Article 41, paragraph 2 of the German Prize Ordinance; Article 40 of the Declaration of London). Since the German commander was unable to take the steamer into a German port without exposing the submarine to danger or impairing the success of the operations in which it was engaged, he was justified in destroying the vessel (Article 113 of the German Prize Ordinance; Article 49 of the Declaration of London). He fulfilled his obligation of placing all persons on board and the ship's papers in safety (Article 116 of the German Prize Ordinance; Article 50 of the Declaration of London).

The Commander therefore acted in conformity with the principles of international law. The legality of the measures taken by him is examinable by German prize jurisdiction according to Article 1, number 2, of the German Prize Ordinance (article 51 of the Declaration of London). The ship's papers have already been sent to the Prize Court at Hamburg. This Court will have to decide the questions whether the destruction of the vessel and cargo was legal, whether the property sunk was liable to confiscation, and to whom and in what amount indemnity is to be awarded, provided any claim therefor is before it. It is true that in the present case, as in the case of the *William P. Frye*, the special provisions of Article 13 of the Prussian-American Treaty of July 11, 1799, are to be considered, pursuant to which property belonging to citizens of the United States of America may only be confiscated when its value is restored.

It appears from information received from the Prize Court that the

American shipping interests have already entrusted a Hamburg attorney with the representation of their rights before the Prize Court. The Foreign Office begs to reserve a note concerning the outcome of the prize proceedings.

Ambassador Gerard to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Berlin, October 30, 1915.

The following note has just been received 10 a. m. from Foreign Office:

Ambassador Count Bernstorff has now reported about the negotiations conducted in Washington, D. C., with reference to the *Arabic* incident, and also communicated to me the text of the letter he addressed to the Secretary of State, Mr. Lansing.

From the ambassador's report I see with satisfaction that a full understanding has been reached between our two Governments.

As Count Bernstorff, acting under instructions of the Imperial Government, has already pointed out, the commander of the submarine that sank the *Arabic* was convinced that the *Arabic* intended to ram his boat. I have since transmitted by mail to Count Bernstorff the evidence on file here—that is, a legalized copy of the report made by the commander of the submarine on September 2, as well as legalized copies of the hearing of the witnesses, conducted on September 21, in the matter of the sinking of the English steamer *Arabic* by a German submarine, together with the diagram and English translations—and have requested him to bring this evidence to the knowledge of the American Government.

I beg to transmit herewith also to Your Excellency copies of the above-mentioned documents, for I trust that Your Excellency's Government will gain from them the conviction that the circumstances as explained in the statements of the witnesses give the commander of the submarine justified reasons for his above-mentioned supposition.

The German Government, on the other hand, as Count Bernstorff has already informed Mr. Lansing, does not want to refuse to credit the affidavit of the English officers of the *Arabic*, according to which no submarine was seen from the *Arabic*. The German Government therefore admits that whereas the commander personally was convinced that he acted in self-defense, there was in fact no attempt made to ram the submarine. I may therefore repeat Count Bernstorff's statement that the attack of the submarine, to our regret, was not in accordance with their instructions issued, and that the commander has been notified accordingly.

As it has been the intention of the Imperial Government to settle the incident in a friendly manner, Count Bernstorff has also been instructed, as you know, to declare to the American Government our readiness to pay, out of friendly consideration and leaving aside the question of the liability resulting from international law, an indemnity for the loss of the American lives which the German Government deeply (* * *).[1]

In giving again expression to my satisfaction that Count Bernstorff's negotiations with the Secretary of State, Mr. Lansing, have led to a settlement of the incident, I avail myself of the occasion to renew to Your Excellency the assurances of my highest consideration.

(Signed) VON JAGOW.
GERARD.

The Secretary of State to Ambassador Gerard.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, November 30, 1915.

Ambassador Gerard is directed to inform the German Foreign Office that the owners of the *Leelanaw* are not represented before the Prize Court and that for the same reason given by the United States Government for refusing to submit the question of the amount of indemnity to be paid in the *William P. Frye* case to the Prize Court, the United States Government desires that the question of the amount of indemnity to be paid in the *Leelanaw* case shall be adjusted by diplomatic negotiations.

Communication from German Government delivered by German Ambassador, under instructions.

GERMAN EMBASSY,
Washington (Received January 7, 1916).

1. German submarines in the Mediterranean had, from the beginning, orders to conduct cruiser warfare against enemy merchant vessels only in accordance with general principles of international law, and in particular measures of reprisal, as applied in the war zone around the British Isles, were to be excluded.

[1]Apparent omission.

2. German submarines are therefore permitted to destroy enemy merchant vessels in the Mediterranean—i. e., passenger as well as freight ships as far as they do not try to escape or offer resistance—only after passengers and crews have been accorded safety.

3. All cases of destruction of enemy merchant ships in the Mediterranean in which German submarines are concerned are made the subject of official investigation and, besides, submitted to regular prize court proceedings. In so far as American interests are concerned, the German Government will communicate the result to the American Government. Thus also in the *Persia* case if the circumstances should call for it.

4. If commanders of German submarines should not have obeyed the orders given to them they will be punished; furthermore, the German Government will make reparation for damage caused by death of or injuries to American citizens.

Memorandum from the German Embassy.[1]

J. Nr. A. 1601.] GERMAN EMBASSY,
Washington.

MEMORANDUM.

The Imperial German Government, on account of the friendly relations which have always existed between the two great nations and earnestly desiring to continue them, wishes to explain the U boat question once more to the American Government.

At the outbreak of the war the German Government, acting upon the suggestion of the United States, immediately expressed its readiness to ratify the Declaration of London. At that time a German prize code had already been issued, which was entirely—and without modification—based upon the rules of the Declaration of London. Germany thereby proved her willingness to recognize fully the existing rules of international law which ensure the freedom of the sea for the legitimate trade of neutral nations, not only among themselves but also with belligerent countries.

Great Britain, on the other hand, declined to ratify the Declaration of London and, after the outbreak of the war, began to restrict the legit-

[1] Received by the Secretary of State March 8, 1916.

imate trade of the neutrals in order to hit Germany. The contraband provisions were systematically extended on August 5, 20, September 21, and October 29, 1914. On November 3, 1914, the order of the British Admiralty followed, declaring the whole North Sea a war zone, in which commercial shipping would be exposed to most serious dangers from mines and men-of-war. Protests from neutrals were of no avail, and from that time on the freedom of neutral commerce with Germany was practically destroyed. Under these circumstances Germany was compelled to resort, in February, 1915, to reprisals in order to fight her opponents' measures, which were absolutely contrary to international law. She chose for this purpose a new weapon, the use of which had not yet been regulated by international law and, in doing so, could and did not violate any existing rules but only took into account the peculiarity of this new weapon, the submarine boat.

The use of the submarine naturally necessitated a restriction of the free movements of neutrals and constituted a danger for them which Germany intended to ward off by a special warning analogous to the warning England had given regarding the North Sea.

As both belligerents—Germany in her note of February 17 and Great Britain in those of February 18 and 20, 1915—claimed that their proceeding was only enacted in retaliation for the violation of international law by their opponents, the American Government approached both parties for the purpose of trying to reëstablish international law as it had been in force before the war. Germany was asked to adapt the use of her new weapon to the rules which had been existing for the former naval weapons and England not to interfere with the food supplies intended for the noncombatant German population and to admit their distribution under American supervision. Germany, on March 1, 1915, declared her willingness to comply with the proposal of the American Government, whilst England, on the other hand, declined to do so. By the Order in Council of March 11, 1915, Great Britain abolished even what had remained of the freedom of neutral trade with Germany and her neutral neighbors. England's object was to starve Germany into submission by these illegal means.

Germany, after neutral citizens had lost their lives against her wish and intention, nevertheless, in the further course of the war, complied with the wishes of the American Government regarding the use of submarines. The rights of neutrals regarding legal trading were, in fact, nowhere limited by Germany.

Then England made it impossible for submarines to conform with the old rules of international law by arming nearly all merchantmen and by ordering the use of the guns on merchant vessels for attack. Photographic reproductions of those instructions have been transmitted to neutral Governments with the memorandum of the German Government of February 8, 1916. These orders are obviously in contradiction with the note delivered by the British Ambassador in Washington to the American Government on August 25, 1914. On account of the proposals made by the United States on January 23, 1916, regarding disarmament, the Imperial Government hoped that these facts would enable the neutral Governments to obtain the disarmament of the merchant ships of her opponents. The latter, however, continued with great energy to arm their merchantmen with guns.

The principle of the United States Government not to keep their citizens off belligerent merchant ships has been used by Great Britain and her allies to arm merchant ships for offensive purposes. Under these circumstances merchantmen can easily destroy submarines, and, if their attack fails, still consider themselves in safety by the presence of American citizens on board.

The order to use arms on British merchantmen was supplemented by instructions to the masters of such ships to hoist false flags and to ram U boats. Reports on payments of premiums and bestowals of decorations to successful masters of merchantmen show the effects of these orders. England's allies have adopted this position.

Now Germany is facing the following facts:

(*a*) A blockade contrary to international law (compare American note to England of November 5, 1915)[1] has for one year been keeping neutral trade from German ports and is making German exports impossible.

(*b*) For 18 months, through the extending of contraband provisions in violation of international law (compare American note to England of November 5, 1915), the overseas trade of neighboring neutral countries, so far as Germany is concerned, has been hampered.

(*c*) The interception of mails in violation of international law (compare American memorandum to England of January 10, 1916)[2] is meant to stop any intercourse of Germany with foreign countries.

[1] This note embodied the instructions from the Secretary of State sent October 21,1915, printed *supra*, p. 73.

[2] Embodied in telegram from the Secretary of State sent January 4, 1916, printed *infra*, p. 404.

(*d*) England, by systematically and increasingly oppressing neutral countries, following the principle of "might before right," has prevented neutral trade on land with Germany so as to complete the blockade of the central powers intended to starve their civil population.

(*e*) Germans met by our enemies on the high seas are deprived of their liberty no matter whether they are combatants or noncombatants.

(*f*) Our enemies have armed their merchant vessels for offensive purposes, theoretically making it impossible to use our U boats according to the principles set forth in London Declaration (compare American memorandum of February 8, 1916).[3]

The English white book of January 5, 1916, on the restriction of German trade, boasts that by British measures Germany's export trade has been stopped almost entirely, whilst her imports are subject to England's will.

The Imperial Government feels confident that the people of the United States, remembering the friendly relations that for the last hundred years have existed between the two nations, will, in spite of the difficulties put into the way by our enemies, appreciate the German viewpoint as laid down above.

J. BERNSTORFF.

The Secretary of State to Ambassador Gerard.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, March 27, 1916.

Mr. Gerard is informed that considerable evidence has been received by the Department to the effect that the steamship *Sussex* with several American citizens among the passengers was sunk by a submarine torpedo on the 24th instant, and he is directed to inquire immediately of the German Foreign Office whether a submarine belonging to Germany or her allies sunk the *Sussex*. The Department expects a prompt reply.

[3] This seems to refer to the "Memorandum of the Imperial German Government on the Treatment of Armed Merchantmen," dated February 8, 1916, printed *infra*, p. 315.

The Secretary of State to Ambassador Gerard.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, March 28, 1916.

Mr. Gerard is informed of Department's advices that the *Englishman*, a steamer of the Dominion Line, was torpedoed March 21 after departure from Avonmouth for Portland, Me. The *Englishman* was a horse ship carrying several Americans on board and the survivors' list does not include some of them.

Mr. Gerard is asked to inquire immediately of the German authorities whether the submarine which sank the vessel belonged to Germany or her allies and to add that the United States Government expects a prompt answer.

The Secretary of State to Ambassador Gerard.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, March 29, 1916.

Mr. Lansing states that the Department has been advised that on March 27 the ship *Manchester Engineer* with American citizens on board was torpedoed off Waterford without warning.

Mr. Gerard is directed to make inquiry of the German Foreign Minister as to whether a submarine of Germany or her allies sank the *Manchester Engineer*.

The Department expects a prompt answer.

The Secretary of State to Ambassador Gerard.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, April 1, 1916.

Mr. Lansing states that information has been received by the Department that the *Eagle Point*, a British steamer with Americans aboard,

was torpedoed on March 28, after surrender. The vessel was bound from St. Johns, New Brunswick, to Cherbourg, France, and those on board were left 130 miles south of Queenstown in two small boats, with a stormy wind blowing, in a heavy sea.

Mr. Gerard is directed to inquire immediately of the German Government whether a submarine belonging to Germany or her allies torpedoed the *Eagle Point*. A prompt reply is expected by the Department.

The Secretary of State to Ambassador Gerard.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE.
Washington, April 1, 1916.

Mr. Lansing states that the Department is in receipt of information that the *Berwindvale*, a British steamer with four Americans on board, was on March 16 torpedoed off Bantry, Ireland, without warning. Apparently the *Berwindvale* was coming to the United States for cargo.

Mr. Gerard is directed to inquire of the German Government whether a submarine of Germany or her allies torpedoed the *Berwindvale*. The Department expects a prompt reply.

Ambassador Gerard to the Secretary of State.

[Telegram.]

No. 3735.] AMERICAN EMBASSY,
Berlin, April 11, 1916.

Following note just received:

FOREIGN OFFICE,
Berlin, April 10, 1916.

The undersigned has the honor to inform His Excellency, Mr. James W. Gerard, ambassador of the United States of America, in reply to the notes of the 29th and 30th ultimo and the 3d instant on the subject of the steamers *Sussex*, *Manchester Engineer*, *Englishman*, *Berwindvale*, and *Eagle Point*, that the cases mentioned have been subjected to a careful investigation by the Admiralty Staff of the Navy, in accordance with

my notes of the 30th and 31st ultimo and the 4th and 5th instants, and that all this investigation has led to the following results:

One. English steamer *Berwindvale.*—A steamer, which was possibly the *Berwindvale,* was encountered by a German submarine on the evening of the 16th of March within sight of Bullrock Light on the Irish coast. As soon as the steamer noticed the submarine, which was traveling on the surface, she turned and ran away. She was called upon to stop by a shot of warning, but did not heed this warning, put out all her lights, and tried to escape. She was thereupon shelled until she stopped and lowered several boats without receiving further orders. After the crew had entered the boats and had sufficient time to pull off to a distance the ship was sunk.

The name of this steamer has not been ascertained. Even with the help of the data furnished by the American Embassy it is not possible to say with certainty that the incident described above relates to the steamer *Berwindvale.* But since the steamer sunk was a tank steamer, like the *Berwindvale,* it may be assumed that the vessels are identical; in this case, however, the statement of the embassy that the *Berwindvale* was torpedoed without warning would conflict with the facts.

Two. English steamer *Englishman.*—On March 24 this steamer was ordered to stop by two shots of warning by a German submarine about 20 nautical miles west of Islay, but continued on her course without paying any attention to the warning and was therefore forced to stop by the submarine by means of artillery fire after a long pursuit; she then lowered boats without receiving further orders. After the German commander had convinced himself that the crew had entered the boats and pulled away from the vessel he sank the steamer.

Three. English steamer *Manchester Engineer.*—It has not been possible to ascertain by the investigation conducted as yet whether the attack on this steamer, which took place off Waterford on March 27 according to the statements of the embassy, is traceable to a German submarine. The data furnished regarding the place and time of the incident do not afford a sufficient clue for the investigation. The receipt of more exact details concerning place, time, and attendant circumstances of the attack reported to the American Government would therefore be desired in order that the investigation may then be brought to a conclusion.

Four. English steamer *Eagle Point.*—On the morning of March 28 this steamer was ordered to stop by a German submarine by signal and shot about 100, not 130, nautical miles from the southwest coast of Ireland, but she continued on her course. She was thereupon shelled until she stopped, and without receiving further orders lowered two boats which the crew entered. After the commander had convinced himself that the boats, which had hoisted sails, had gotten clear of the steamer he sank her.

At the time of the sinking a north-northwest wind of the second strength was blowing, not a "stormy wind," and there was a slight roll

against the wind, not a "heavy sea," as asserted in the Embassy's statement of the facts. The boats furthermore had every prospect of being picked up very soon, since the place of the sinking was on one of the much used steamer routes. If the crew of the steamer in rescuing themselves made use of only two small boats they are themselves to blame, for there were at least four large folding boats on the steamer, as the submarine was able to ascertain.

Five. French steamer *Sussex*.—The establishment of the fact whether the channel steamer *Sussex* was damaged by a German submarine or not has been made extraordinarily difficult, because no exact data concerning place, time, and attendant circumstances of the sinking were known and no picture of this vessel could be obtained until April 6. Consequently the investigation had to embrace every one of the undertakings which took place in the channel on or near the route between Folkestone and Dieppe on March 24, the day in question.

In this locality a long black vessel without a flag, with a gray smokestack and a small gray superstructure, and with two tall masts, was encountered by a German submarine on March 24 about the middle of the English Channel. The German commander gained the definite conviction that he had before him a war vessel, a mine layer of the newly constructed English *Arabic* class. He was led to this conviction, one, by the flush deck of the vessel; two, by the warship form of stern, protruding diagonally backward and then falling downward; three, by the warship like coat of paint; four, by the high speed of about 18 sea miles developed by the vessel; five, by the circumstance that the vessel did not follow the course to the north of the lightbuoys between Dungeness and Beachy Head, which is the customary course for merchant shipping according to the frequent and uniform observations of the German submarines, but sailed in the middle of the channel, pointing about for Havre. He consequently attacked the ship submerged at 3.55 o'clock p. m., Central European time, 1½ sea miles southeast of Bullrock Bank. The torpedo struck and caused such a severe explosion in the foreship that the whole foreship was torn loose up to the bridge. The particularly severe explosion permits the safe conclusion that there were large quantities of ammunition on board.

The German commander has made a sketch of the vessel attacked by him, two reproductions of which are attached. The picture of the steamer *Sussex*, two copies of which are likewise attached, is a photograph taken from the English *Daily Graphic* paper of the 27th ultimo. A comparison of the sketch with the picture shows that the *Sussex* is not identical with the vessel attacked; the difference in the position of the smokestacks and the shape of the stern is particularly prominent. No further attack whatever was made by German submarines at the time coming into question for the *Sussex* on the way between Folkestone and Dieppe.

From this the German Government is forced to assume that the damaging of the *Sussex* is to be attributed to another cause than the

attack of a German submarine. In order that the true state of affairs may be cleared up, the fact may possibly be of use that on the 1st and 2d of April alone no less than 26 English mines were exploded by German naval forces in the channel; the whole of that part of the seas is dangerous owing to floating mines and torpedoes which have not sunk. The waters near the English coast will be still more dangerous on account of German mines also which have been sowed against the hostile naval forces.

Should the American Government have at its disposal further material for forming judgment on the case of the *Sussex* the German Government begs to request that this material may be communicated to it in order that it may be able to subject this material to an examination also. In the event of differences of opinion arising between the two Governments in this connection, the German Government declares at this time its readiness to permit the facts to be ascertained by a mixed committee of investigation, pursuant to the third title of The Hague Convention of October 18, 1907, for the pacific settlement of international disputes.

The undersigned requests that the above be brought to the knowledge of the Government of the United States and avails himself of this opportunity to renew, etc.

VON JAGOW.
GERARD.

The Secretary of State to Ambassador Gerard.

[Telegram.]

DEPARTMENT OF STATE,
Washington, April 18, 1916.

You are instructed to deliver to the Secretary of Foreign Affairs a communication reading as follows:

I did not fail to transmit immediately, by telegraph, to my Government Your Excellency's note of the 10th instant in regard to certain attacks by German submarines, and particularly in regard to the disastrous explosion which on March 24, last, wrecked the French steamship *Sussex* in the English Channel. I have now the honor to deliver, under instructions from my Government, the following reply to Your Excellency:

Information now in the possession of the Government of the United States fully establishes the facts in the case of the *Sussex*,[1] and the in-

[1] The text of the evidence is printed in an appendix, *infra*, p. 230.

ferences which my Government has drawn from that information it regards as confirmed by the circumstances set forth in Your Excellency's note of the 10th instant. On the 24th of March, 1916, at about 2.50 o'clock in the afternoon, the unarmed steamer *Sussex*, with 325 or more passengers on board, among whom were a number of American citizens, was torpedoed while crossing from Folkestone to Dieppe. The *Sussex* had never been armed; was a vessel known to be habitually used only for the conveyance of passengers across the English Channel; and was not following the route taken by troop ships or supply ships. About 80 of her passengers, noncombatants of all ages and sexes, including citizens of the United States, were killed or injured.

A careful, detailed, and scrupulously impartial investigation by naval and military officers of the United States has conclusively established the fact that the *Sussex* was torpedoed without warning or summons to surrender and that the torpedo by which she was struck was of German manufacture. In the view of the Government of the United States these facts from the first made the conclusion that the torpedo was fired by a German submarine unavoidable. It now considers that conclusion substantiated by the statements of Your Excellency's note. A full statement of the facts upon which the Government of the United States has based its conclusion is inclosed.

The Government of the United States, after having given careful consideration to the note of the Imperial Government of the 10th of April, regrets to state that the impression made upon it by the statements, and proposals contained in that note is that the Imperial Government has failed to appreciate the gravity of the situation which has resulted, not alone from the attack on the *Sussex* but from the whole method and character of submarine warfare as disclosed by the unrestrained practice of the commanders of German undersea craft during the past twelvemonth and more in the indiscriminate destruction of merchant vessels of all sorts, nationalities, and destinations. If the sinking of the *Sussex* had been an isolated case the Government of the United States might find it possible to hope that the officer who was responsible for that act had wilfully violated his orders or had been criminally negligent in taking none of the precautions they prescribed, and that the ends of justice might be satisfied by imposing upon him an adequate punishment, coupled with a formal disavowal of the act and payment of a suitable indemnity by the Imperial Government. But, though the attack upon the *Sussex* was manifestly indefensible and

caused a loss of life so tragical as to make it stand forth as one of the most terrible examples of the inhumanity of submarine warfare as the commanders of German vessels are conducting it, it unhappily does not stand alone.

On the contrary, the Government of the United States is forced by recent events to conclude that it is only one instance, even though one of the most extreme and most distressing instances, of the deliberate method and spirit of indiscriminate destruction of merchant vessels of all sorts, nationalities, and destinations which have become more and more unmistakable as the activity of German undersea vessels of war has in recent months been quickened and extended.

The Imperial Government will recall that when, in February, 1915, it announced its intention of treating the waters surrounding Great Britain and Ireland as embraced within the seat of war and of destroying all merchant ships owned by its enemies that might be found within that zone of danger, and warned all vessels, neutral as well as belligerent, to keep out of the waters thus proscribed or to enter them at their peril, the Government of the United States earnestly protested. It took the position that such a policy could not be pursued without constant gross and palpable violations of the accepted law of nations, particularly if submarine craft were to be employed as its instruments, inasmuch as the rules prescribed by that law, rules founded on the principles of humanity and established for the protection of the lives of noncombatants at sea, could not in the nature of the case be observed by such vessels. It based its protest on the ground that persons of neutral nationality and vessels of neutral ownership would be exposed to extreme and intolerable risks; and that no right to close any part of the high seas could lawfully be asserted by the Imperial Government in the circumstances then existing. The law of nations in these matters, upon which the Government of the United States based that protest, is not of recent origin or founded upon merely arbitrary principles set up by convention. It is based, on the contrary, upon manifest principles of humanity and has long been established with the approval and by the express assent of all civilized nations.

The Imperial Government, notwithstanding, persisted in carrying out the policy announced, expressing the hope that the dangers involved, at any rate to neutral vessels, would be reduced to a minimum by the instructions which it had issued to the commanders of its submarines, and assuring the Government of the United States that it would take

every possible precaution both to respect the rights of neutrals and to safeguard the lives of noncombatants.

In pursuance of this policy of submarine warfare against the commerce of its adversaries, thus announced and thus entered upon in despite of the solemn protest of the Government of the United States, the commanders of the Imperial Government's undersea vessels have carried on practices of such ruthless destruction which have made it more and more evident as the months have gone by that the Imperial Government has found it impracticable to put any such restraints upon them as it had hoped and promised to put. Again and again the Imperial Government has given its solemn assurances to the Government of the United States that at least passenger ships would not be thus dealt with, and yet it has repeatedly permitted its undersea commanders to disregard those assurances with entire impunity. As recently as February last it gave notice that it would regard all armed merchantmen owned by its enemies as part of the armed naval forces of its adversaries and deal with them as with men-of-war, thus, at least by implication, pledging itself to give warning to vessels which were not armed and to accord security of life to their passengers and crews; but even this limitation their submarine commanders have recklessly ignored.

Vessels of neutral ownership, even vessels of neutral ownership bound from neutral port to neutral port, have been destroyed along with vessels of belligerent ownership in constantly increasing numbers. Sometimes the merchantmen attacked have been warned and summoned to surrender before being fired on or torpedoed; sometimes their passengers and crews have been vouchsafed the poor security of being allowed to take to the ship's boats before the ship was sent to the bottom. But again and again no warning has been given, no escape even to the ship's boats allowed to those on board. Great liners like the *Lusitania* and *Arabic* and mere passenger boats like the *Sussex* have been attacked without a moment's warning, often before they have even become aware that they were in the presence of an armed ship of the enemy, and the lives of noncombatants, passengers, and crew have been destroyed wholesale and in a manner which the Government of the United States can not but regard as wanton and without the slightest color of justification. No limit of any kind has in fact been set to their indiscriminate pursuit and destruction of merchantmen of all kinds and nationalities within the waters which the Imperial Government has chosen to designate as lying within the seat of war. The roll of Americans who have lost their lives upon

ships thus attacked and destroyed has grown month by month until the ominous toll has mounted into the hundreds.

The Government of the United States has been very patient. At every stage of this distressing experience of tragedy after tragedy it has sought to be governed by the most thoughtful consideration of the extraordinary circumstances of an unprecedented war and to be guided by sentiments of very genuine friendship for the people and Government of Germany. It has accepted the successive explanations and assurances of the Imperial Government as of course given in entire sincerity and good faith, and has hoped, even against hope, that it would prove to be possible for the Imperial Government so to order and control the acts of its naval commanders as to square its policy with the recognized principles of humanity as embodied in the law of nations. It has made every allowance for unprecedented conditions and has been willing to wait until the facts became unmistakable and were susceptible of only one interpretation.

It now owes it to a just regard for its own rights to say to the Imperial Government that that time has come. It has become painfully evident to it that the position which it took at the very outset is inevitable, namely, the use of submarines for the destruction of an enemy's commerce, is, of necessity, because of the very character of the vessels employed and the very methods of attack which their employment of course involves, utterly incompatible with the principles of humanity, the long-established and incontrovertible rights of neutrals, and the sacred immunities of noncombatants.

If it is still the purpose of the Imperial Government to prosecute relentless and indiscriminate warfare against vessels of commerce by the use of submarines without regard to what the Government of the United States must consider the sacred and indisputable rules of international law and the universally recognized dictates of humanity, the Government of the United States is at last forced to the conclusion that there is but one course it can pursue. Unless the Imperial Government should now immediately declare and effect an abandonment of its present methods of submarine warfare against passenger and freight-carrying vessels, the Government of the United States can have no choice but to sever diplomatic relations with the German Empire altogether. This action the Government of the United States contemplates with the greatest reluctance but feels constrained to take in behalf of humanity and the rights of neutral nations. LANSING.

Statement of Facts in "Sussex" Case.

ACCOMPANYING NOTE TO GERMAN GOVERNMENT OF APRIL 18, 1916.

The French channel steamer *Sussex*, employed regularly in passenger service between the ports of Folkestone, England, and Dieppe, France, as it had been for years (Statement of the French Ministry of Foreign Affairs [1]), left Folkestone for Dieppe at 1.25 p. m., March 24, 1916, with 325 or more passengers and a crew of 53 men. (Declaration of Captain Mouffet; [2] report of Rear Admiral Grasset.[3]) The passengers, among whom were about 25 American citizens (Telegram London Embassy, March 25,[4] and Paris Embassy, March 26 [4] and 28 [4]) were of several nationalities and many of them were women and children and nearly half of them subjects of neutral states. (Report of Commander Sayles and Lieutenant Smith; [5] Rear Admiral Grasset's report.[3]) The *Sussex* carried no armament (Statement of French Ministry of Foreign Affairs; [1] report of Commander Sayles and Lieutenant Smith,[5] affidavits of American passengers), has never been employed as a troop ship, and was following a route not used for transporting troops from Great Britain to France. (British Admiralty statement; [4] Statement of French Ministry of Foreign Affairs.[1])

The steamer proceeded on its course almost due south after passing Dungeness. (Declaration of Captain Mouffet.[2]) The weather was clear and the sea smooth. (Affidavits of Edna Hale,[6] John H. Hearley,[7] Gertrude W. Warren.[8]) At 2.50 p. m., when the *Sussex* was about 13 miles from Dungeness (Declaration of Captain Mouffet [2]), the captain of the vessel, who was on the bridge, saw about 150 meters from the ship, on the port side, the wake of a torpedo. (Declaration of Captain Mouffet.[2]) It was also seen very clearly by the first officer and the boatswain who were with the captain on the bridge. (Report of Rear Admiral Grasset.[3]) Immediately the captain gave orders to port the helm and stop the starboard engine (Declaration of Captain Mouffet [2]), the purpose being to swing the vessel to starboard so as to dodge the torpedo by allowing it to pass along the port bow on a line converging with the altered course of the steamer. Before, however, the vessel could be

[1] See pp. 230 and 289.
[2] See p. 246.
[3] See p. 279.
[4] Not printed.
[5] See p. 287.
[6] See p. 275.
[7] See p. 266.
[8] See p. 259.

turned far enough to avoid crossing the course of the torpedo, the latter struck the hull at an angle a short distance forward of the bridge, exploded, destroyed the entire forward part of the steamer as far back as the first water-tight bulkhead, carried away the foremast with the wireless antennæ and killed or injured about 80 of the persons on board, (Declaration of Captain Mouffet;[2] report of Rear Admiral Grasset;[3] deposition of Henry S. Beer.[9]) At the time no other vessel was in sight. (Affidavits of Samuel F. Bemis,[10] T. W. Culbertson,[11] John H. Hearley,[6] and others.[12])

The approach of the torpedo was witnessed by several other persons on the vessel. (Affidavits of Samuel F. Bemis,[10] Henry S. Beer,[9] Gertrude W. Warren.[8]) One of these, an American citizen named Henry S. Beer, was leaning on the port rail about 10 feet behind the bridge and gazing seaward when he saw the approaching torpedo about 100 yards away and exclaimed to his wife and companion: "A torpedo!" Immediately following his exclamation the missile struck the vessel. (Depositions of Henry S. Beer [9] and Mrs. Henry S. Beer.[13])

In further corroboration of the fact, that the captain saw the torpedo coming toward the vessel, is the sworn statement of the engineers on duty that the order to port the helm and to stop the starboard engine was received and obeyed. (Report of Admiral Grasset.[3]) No reasonable explanation can be given for this unusual order other than that the captain saw something which caused him to change his course sharply to starboard.

In addition to this evidence which would in itself appear to be conclusive that the agent of destruction was a torpedo, is that of Lieutenant Smith, United States Navy, attached to the American Embassy at Paris, who, accompanied by Major Logan, United States Army, of the Embassy, went to Boulogne, inspected the hull of the *Sussex* and personally found beneath the mass of water-soaked debris of the wreck 15 pieces of metal,[14] which they retained in their possession as they did not believe the pieces formed part of the vessel. The inspection of the hull disclosed that the vessel was wrecked by an external explosion, the boilers being intact, and that a short distance forward of the bridge was a large dent showing that the vessel had received a heavy blow, the direction of

[9] See p. 274. [10] See p. 249. [11] See p. 253.
[12] See affidavits, pp. 253, 257, 259, 260, 262, 264, 269, 271, 275.
[13] See p. 287.
[14] See pp. 283, 290, and 293.

impact being from abaft the beam along a line at an acute angle with the keel of the vessel. (Report of Lieutenant Smith, cabled April 1.[15]) This evidence coincides with and corroborates the statement that the vessel was swinging to starboard and away from the torpedo when struck.

The pieces of metal, which the American officers had collected, were compared by Lieutenant Smith, Lieutenant Commander Sayles and Major Logan with mines and plans of mines in possession of the French Naval authorities at Boulogne, Rochefort, and Toulon, and British Naval authorities at Portsmouth. These officers are positive in their opinion that these pieces of metal were not parts of a mine. (Report of Lieutenant Smith, cabled April 1 and 5.[16])

Among these 15 pieces of metal were two screw-bolts showing the effects of an explosion, which were stamped with "K" and "56" on faces of the head of one, and "K" and "58" on faces of the head of the other. On examining German torpedoes in the possession of the French Naval authorities at Toulon, and of the English Naval authorities at Portsmouth, the American officers found that identical screws with the letter "K" and a number were employed to fasten the "war" head (kopf) to the air chamber. (Lieutenant Smith's reports, cabled April 2, 5, and 13.[17])

The screws used in French and English torpedoes have no markings and are of a slightly different size. (Same reports.) Furthermore, the American officers were able by comparison and close examination to positively identify and locate all the remaining 13 pieces of metal as parts of a German torpedo, as follows:

Fragment 3, part of inner seat of water relief valve of engine valve.

Fragments 4 and 5, punto bands of engine-room casing.

Fragments 6 to 10 inclusive and 12, parts of engine cylinders.

Fragments 11, 13, 14, 15, parts of steel war head still bearing the distinctive red paint common to German torpedo war heads. (Report of Lieutenant Smith,[18] cabled April 5.)

In view of these authenticated facts there can be no reasonable doubt but that the *Sussex* was torpedoed and that the torpedo was of German manufacture. As no vessel was seen by any person on the *Sussex*, the conclusion is irresistible that the torpedo was launched without warning from a submarine which was submerged at the time of the attack and remained beneath the surface after the explosion.

[15] See report dated March 30, p. 230.

[16] See pp. 283 and 287.

[17] See pp. 230, 283, 290, 293.

[18] See p. 287.

The conclusion thus reached from the evidence (the affidavits being those of American citizens) collected by the Department of State is substantiated by the statements in the Imperial Government's note of April 10, 1916. According to those statements—

(*a*) A German submarine torpedoed a steamer 1½ miles southeast of Bull Rock Bank.

Department's comment.—The point of attack is exactly in the course which was taken by the *Sussex* after passing Dungeness and about ½ mile from the place where the captain of the *Sussex* states he was torpedoed.

(*b*) The attack took place at 3.55 o'clock p. m., Central European time.

Department's comment.—3.55 p. m., Central European time would correspond to 2.55 p. m., Western European time. The time of the striking of the torpedo according to the captain of the *Sussex*, and the stopping of the clocks on board the vessel, was 2.50 p. m., Western time.

(*c*) The torpedo, when it struck, caused an explosion which tore away the whole foreship up to the bridge.

Department's comment.—The forepart of the *Sussex* was wrecked as far back as the first water-tight bulkhead, according to the official reports.

(*d*) The German submarine was submerged when the torpedo was launched and there is no statement that it came to the surface after the attack.

Department's comment.—The conclusion was reached that the submarine was submerged from the fact that no one on the *Sussex* saw a submarine though the weather was fine.

(*e*) No warning was given and no attempt was made to give one since it is not mentioned.

Department's comment.—The evidence collected shows affirmatively no warning was given.

(*f*) A sketch by the submarine commander of the steamer which he torpedoed does not agree with a photograph of the *Sussex* in the London Graphic.

Department's comment.—This sketch was apparently made from memory of an observation of the vessel through a periscope. As the only differences noted by the commander, who relied on his memory, were the position of the smokestack and the shape of the stern, it is to be presumed the vessels were similar in other respects.

(*g*) No other German submarines on that day attacked steamers in that locality.

Department's comment.—As no vessel is reported to have been torpedoed without warning by a submerged submarine other than the *Sussex,* it is beyond question that that vessel was torpedoed by the submarine whose commander's report is relied upon in the note of April 10.

LANSING.

Ambassador Gerard to the Secretary of State.

[Telegram.]

No. 3848.] AMERICAN EMBASSY,
Berlin, May 4, 1916.

Following is the text of the note handed to me both in German and English at 5.30 this afternoon by Secretary of State for Foreign Affairs:

FOREIGN OFFICE,
Berlin, May 4, 1916.

The undersigned, on behalf of the Imperial Government, has the honor to present to His Excellency the Ambassador of the United States, Mr. James W. Gerard, the following reply to the note of April 20 regarding the conduct of German submarine warfare:

The German Government has handed over to the proper naval authorities for further investigation the evidence concerning the *Sussex,* as communicated by the Government of the United States. Judging by results that this investigation has hitherto yielded, the German Government is alive to the possibility that the ship mentioned in the note of April 10 as torpedoed by a German submarine is actually identical with the *Sussex.* The German Government begs to reserve further communications on the matter until certain points are ascertained which are of decisive importance for establishing the facts of the case. Should it turn out that the commander was wrong in assuming the vessel to be a man-of-war the German Government will not fail to draw the consequences resulting therefrom.

In connection with the case of the *Sussex,* the Government of the United States has made a series of statements, gist of which is the assertion that this incident is to be considered as one instance for the deliberate method of indiscriminate destruction of vessels of all sorts, nationalities, and destinations by German submarine commanders.

The German Government must emphatically repudiate this assertion. The German Government, however, thinks it of little avail to enter into details in the present stage of affairs, more particularly as the Government of the United States has omitted to substantiate this assertion by reference to concrete facts. The German Government will only state that it has imposed far-reaching restraints upon the use of the submarine weapon solely in consideration of the interests of neutrals, in spite of the fact that these restrictions are necessarily of advantage to Germany's enemies; no such consideration has ever been shown to the neutrals by Great Britain and her allies.

The German submarine forces have had, in fact, orders to conduct submarine warfare in accordance with the general principles of visit and search and destruction of merchant vessels as recognized by international law, the sole exception being the conduct of warfare against the enemy trade carried on enemy freight ships that are encountered in the war zone surrounding Great Britain; with regard to these no assurances have ever been given to the Government of the United States; no such assurance was contained in the declaration of February 8, 1916. The German Government can not admit any doubt that these orders have been given and are executed in good faith. Errors have actually occurred; they can in no kind of warfare be avoided altogether, and allowances must be made in the conduct of naval warfare against an enemy resorting to all kinds of ruses, whether permissible or illicit. But, apart from the possibility of errors, naval warfare, just like warfare on land, implies unavoidable dangers for neutral persons and goods entering the fighting zone. Even in cases where naval action was confined to their ordinary forms of cruiser warfare, neutral persons and goods have repeatedly come to grief. The German Government has repeatedly and explicitly pointed out the dangers from mines that have led to the loss of numerous ships. The German Government has made several proposals to the Government of the United States in order to reduce to a minimum for American travelers and goods the inherent dangers of naval warfare. Unfortunately the Government of the United States has decided not to accept these proposals; had it accepted, the Government of the United States would have been instrumental in preventing the greater part of the accidents that American citizens have met with in the meantime. The German Government still stands by its offer to come to an agreement along these lines.

As the German Government has repeatedly declared, it can not dispense with the use of the submarine weapon in the conduct of warfare against enemy trade. The German Government, however, has now decided to make a further concession in adapting the methods of submarine warfare to the interests of the neutrals; in reaching this decision the German Government has been actuated by considerations which are above the level of the disputed question.

The German Government attaches no less importance to the sacred principles of humanity than the Government of the United States.

Again, it fully takes into account that both Governments have for many years coöperated in developing international law in conformity with these principles, the ultimate object of which has been always to confine warfare on sea and on land to the armed forces of the belligerents and to safeguard, as far as possible, noncombatants against the horrors of war.

But, although those considerations are of great weight, they alone would not, under the present circumstances, have determined the attitude of the German Government.

For, in answer to the appeal made by the United States Government on behalf of the sacred principles of humanity and international law, the German Government must repeat once more with all emphasis that it was not the German but the British Government which, ignoring all the accepted rules of international law, has extended this terrible war to the lives and property of noncombatants, having no regard whatever for the interests and rights of the neutrals and noncombatants that through this method of warfare have been severely injured.

In self-defense against the illegal conduct of British warfare, while fighting a bitter struggle for her national existence, Germany had to resort to the hard but effective weapon of submarine warfare. As matters stand, the German Government can not but reiterate its regret that the sentiments of humanity which the Government of the United States extends with such fervor to the unhappy victims of submarine warfare are not extended with the same warmth of feeling to the many millions of women and children who, according to the avowed intentions of the British Government, shall be starved and who, by their sufferings, shall force the victorious armies of the central powers into ignominious capitulation. The German Government, in agreement with the German people, fails to understand this discrimination, all the more as it has repeatedly and explicitly declared itself ready to use the submarine weapon in strict conformity with the rules of international law as recognized before the outbreak of the war, if Great Britain were likewise ready to adapt her conduct of warfare to these rules. The several attempts made by the Government of the United States to prevail upon the British Government to act accordingly have failed because of the flat refusal on the part of the British Government. Moreover, Great Britain has ever since again and again violated international law, surpassing all bounds in outraging neutral rights. The latest measure adopted by Great Britain, declaring German bunker coal as contraband and establishing conditions under which alone English bunker coal shall be supplied to neutrals, is nothing but an unheard of attempt, by way of exaction, to force neutral tonnage into the service of the British trade war.

The German people knows that the Government of the United States has the power to confine this war to the armed forces of the belligerent countries in the interest of humanity and the maintenance of international law. The Government of the United States would have been

certain of attaining this end had it been determined to insist against Great Britain on its incontestable rights to the freedom of the seas. But, as matters stand, the German people is under the impression that the Government of the United States, while demanding that Germany, struggling for her existence, shall restrain the use of an effective weapon, and while making the compliance with these demands a condition for the maintenance of relations with Germany, confines itself to protests against the illegal methods adopted by Germany's enemies. Moreover, the German people knows to what a considerable extent its enemies are supplied with all kinds of war material from the United States.

It will therefore be understood that the appeal made by the Government of the United States to the sentiments of humanity and to the principles of international law can not, under the circumstances, meet with the same hearty response from the German people which such an appeal is otherwise always certain to find here. If the German Government, nevertheless, has resolved to go to the utmost limit of concessions, it has not alone been guided by the friendship connecting the two great nations for over a hundred years, but it also has thought of the great doom which threatens the entire civilized world should this cruel and sanguinary war be extended and prolonged.

The German Government, conscious of Germany's strength, has twice within the last few months announced before the world its readiness to make peace on a basis safeguarding Germany's vital interests, thus indicating that it is not Germany's fault if peace is still withheld from the nations of Europe.

The German Government feels all the more justified to declare that the responsibility could not be borne before the forum of mankind and history if, after 21 months' duration of the war, the submarine question under discussion between the German Government and the Government of the United States were to take a turn seriously threatening the maintenance of peace between the two nations.

As far as it lies with the German Government, it wishes to prevent things from taking such a course. The German Government, moreover, is prepared to do its utmost to confine the operations of war for the rest of its duration to the fighting forces of the belligerents, thereby also insuring the freedom of the seas, as principle upon which the German Government believes, now as before, to be in agreement with the Government of the United States.

The German Government, guided by this idea, notifies the Government of the United States that the German naval forces have received the following orders: In accordance with the general principles of visit and search and destruction of merchant vessels recognized by international law, such vessels, both within and without the area declared as naval war zone, shall not be sunk without warning and without saving human lives, unless these ships attempt to escape or offer resistance.

But neutrals can not expect that Germany, forced to fight for her existence, shall, for the sake of neutral interest, restrict the use of an

effective weapon if her enemy is permitted to continue to apply at will methods of warfare violating the rules of international law. Such a demand would be incompatible with the character of neutrality, and the German Government is convinced that the Government of the United States does not think of making such a demand, knowing that the Government of the United States has repeatedly declared that it is determined to restore the principle of the freedom of the seas, from whatever quarter it is violated.

Accordingly, the German Government is confident that, in consequence of the new orders issued to its naval forces, the Government of the United States will now also consider all impediments removed which may have been in the way of a mutual coöperation towards the restoration of the freedom of the seas during the war as suggested in the note of July 23, 1915, and it does not doubt that the Government of the United States will now demand and insist that the British Government shall forthwith observe the rules of international law universally recognized before the war as they are laid down in the notes presented by the Government of the United States to the British Government on December 28, 1914, and November 5, 1915. Should the steps taken by the Government of the United States not attain the object it desires to have the laws of humanity followed by all belligerent nations, the German Government would then be facing a new situation, in which it must reserve itself complete liberty of decision.

The undersigned avails himself of this occasion to renew to the American Ambassador the assurances of his highest consideration.

VON JAGOW.

Foreign Office informs me note will be given out here to the German newspapers and American correspondents late to-morrow afternoon.

GERARD.

The Secretary of State to Ambassador Gerard.

[Telegram.]

DEPARTMENT OF STATE,
Washington, May 8, 1916.

You are instructed to deliver to the Minister of Foreign Affairs a communication textually as follows:

The note of the Imperial German Government under date of May 4, 1916, has received careful consideration by the Government of the United States. It is especially noted, as indicating the purpose of the Imperial Government as to the future, that it "is prepared to do its

utmost to confine the operations of the war for the rest of its duration to the fighting forces of the belligerents," and that it is determined to impose upon all its commanders at sea the limitations of the recognized rules of international law upon which the Government of the United States has insisted. Throughout the months which have elapsed since the Imperial Government announced, on February 4, 1915, its submarine policy, now happily abandoned, the Government of the United States has been constantly guided and restrained by motives of friendship in its patient efforts to bring to an amicable settlement the critical questions arising from that policy. Accepting the Imperial Government's declaration of its abandonment of the policy which has so seriously menaced the good relations between the two countries, the Government of the United States will rely upon a scrupulous execution henceforth of the now altered policy of the Imperial Government, such as will remove the principal danger to an interruption of the good relations existing between the United States and Germany.

The Government of the United States feels it necessary to state that it takes it for granted that the Imperial German Government does not intend to imply that the maintenance of its newly announced policy is in any way contingent upon the course or result of diplomatic negotiations between the Government of the United States and any other belligerent Government, notwithstanding the fact that certain passages in the Imperial Government's note of the 4th instant might appear to be susceptible of that construction. In order, however, to avoid any possible misunderstanding, the Government of the United States notifies the Imperial Government that it can not for a moment entertain, much less discuss, a suggestion that respect by German naval authorities for the rights of citizens of the United States upon the high seas should in any way or in the slightest degree be made contingent upon the conduct of any other Government affecting the rights of neutrals and noncombatants. Responsibility in such matters is single, not joint; absolute, not relative.

LANSING.

The German Ambassador to the Secretary of State.

GERMAN EMBASSY,
Washington, May 12, 1916.

MR. SECRETARY OF STATE: A German submarine, in January, last, signaled with flags from a distance the Dutch steamer *Bandoeng* to stop. Instead of immediately complying with that summons, permissible under international law, the Dutch steamer turned at high speed on the submarine, whose commander, on the assumption warranted by the circumstances that he had to do with an English ship in disguise bent on

attacking him, then opened fire on her. The steamer *Bandoeng* then stopped and sent over a boat for the examination of the ship's papers. On being asked about his captain's proceeding, the Dutch officer in command of the boat explained that he wanted to come nearer the submarine so as to shorten the visitation formalities.

The Imperial Government finds in the incident occasion to suggest to the neutral Governments that the masters of their merchant ships be given to understand that in the event of thus being stopped by German public vessels the provisions of international law must be observed to the letter and that their special attention be called to the danger incurred by turning their ships on a submarine. Thus alone can incidents of the foregoing description be avoided, the responsibility for which would exclusively lie upon the neutral shipmaster.

Accept, etc., BERNSTORFF.

Ambassador Gerard to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Berlin, August 27, 1916.

Foreign Office in a note dated August 26, which was received to-day, replies as follows in regard to American steamer *Owego:*

As established by the Admiralty Staff of the Imperial Navy, a German submarine at 2.40 afternoon, on August 3, with very clear weather and smooth sea, sighted a slow-going steamer of an old type and stood by. At a distance of 6,000 meters the submarine made the steamer a signal to stop and gave two warning shots. As nothing happened on the steamer, whose flag was not recognizable but which nevertheless continued to proceed on its way, three further warning shots were fired. As the steamer neither made an "understood" signal nor stood by, fire was opened on it. After 6 shots (11 shots in all) it hoisted American flag on the forestay and stopped. The distance was now 2,000 meters. The submarine signaled "send immediately boat with the papers," to which the captain of the steamer answered by hoisting his designation signal but did nothing more. When, after a further 17 minutes, no preparations were made to launch a boat the commander of the submarine fired a shot across the steamer's bow. After 10 minutes the first officer came on board the submarine and stated that the captain had not observed the submarine until then. The Imperial Government

can not give any credence to this evasive excuse, since the note of August 18 mentions 10 shots fired at the steamer, from which it is undeniably clear that the warning shots were heard by the captain of the *Owego*, but that no attention was paid to them.

Under these circumstances the Imperial Government finds itself under the necessity of emphasizing the fact that while the conduct of the commander of the submarine was in every respect correct, the behavior of the steamer *Owego* was not in accordance with the rules of international law. The captain would therefore have had only himself to blame had his conduct brought about unpleasant results.

GERARD.

Appendix A.

EVIDENCE IN THE ARABIC CASE.

Ambassador W. H. Page to the Secretary of State.

No. 2029.] American Embassy,
London, August 23, 1915.

Sir: I have the honor to enclose herewith affidavits of the following six American passengers who were rescued from the S. S. *Arabic:* William Cummins, Claude M. Roode, William Hughes, Peter Dugal, John J. Olschewski, and Christopher McTamney.

I have, etc., Walter Hines Page.

[Inclosure No. 1.]

Affidavit of William Cummins.

Consulate of the
United States of America,
Liverpool, England.

I, William Cummins, first being duly sworn, do depose and say as follows:

That I was born in Church Merrington, England, on October 22, 1869. That I am an American citizen by naturalization. That my residence is 210 W. 107th Street, New York City. That I was on board the S. S. *Arabic* when she was torpedoed in the Atlantic, and that I was on the top deck, close to the captain's bridge, looking at the steamer which had already been disabled by shell fire. I saw the track of the torpedo, and also saw the torpedo strike the side of the vessel. I heard the captain distinctly state to all in hearing to get life belts and go to the boats, which I lost no time in doing.

I further assert under oath that the vessel was not warned, and am positive that no one on board saw the submarine.

That I got into boat No. 8, commanded by the boatswain, and was taken to Queenstown by the British cruiser *Magnolia*.

WILLIAM CUMMINS.

Subscribed and sworn to before me this 21st day of August, 1915.

HORACE LEE WASHINGTON,
Consul of the United States of America,
Liverpool, England.

[Seal of the American Consulate.]

[Inclosure 2.]

Affidavit of Claude M. Roode.

KINGDOM OF GREAT BRITAIN & IRELAND, COUNTY OF LANCASTER, CITY OF LIVERPOOL, CONSULATE OF THE UNITED STATES OF AMERICA, *ss:*

I, Claude M. Roode, of 620 Rugby Road, Schenectady, New York, first being duly sworn, do depose and say as follows:

That I am an American citizen, and that I was born at Cannonsville, N. Y., June 3rd, 1883. That I sailed on the White Star steamer *Arabic* from Liverpool for New York on August 18th, 1915. That about 9.30 a. m., August 19th, I was on "B" deck about amidships, and about 200 yards away I saw the track of a torpedo coming, and in my estimation the track was moving at a slight angle to the *Arabic*. I ran forward, as I was apprehensive that the torpedo would strike that part of the vessel where I was standing. The track of the torpedo was the first intimation of danger. That I state positively, under oath, that I know the ship was not hailed by any vessel at about this time, and that no warning whatsoever of any kind was given prior to the sending of the torpedo against the *Arabic*. That after the explosion I assisted by placing life belts on two ladies, and then entered number 3 boat, and was finally landed at Queenstown, whence I proceeded to Liverpool.

CLAUDE M. ROODE.

Subscribed and sworn to before me this 21st day of August, 1915.

HORACE LEE WASHINGTON,
Consul of the United States of America,
Liverpool, England.

[Seal of the American Consulate.]

[Inclosure 3.]

Affidavit of William Hughes.

CONSULATE OF THE
UNITED STATES OF AMERICA,
Liverpool, England.

I, William Hughes, do depose and say as follows:

That my name is William Hughes, and that I was born in Ilwaco, Washington, November 9th, 1893. That my home address in the United States is Kelso, Washington. That I saw the track of the torpedo before it struck the S. S. *Arabic*, and about two minutes after I observed the said track I was washed overboard by the listing of the vessel. That I assert under oath that the vessel was not warned before torpedoing. That I was picked up by the second mate's boat and taken to Queenstown by a British cruiser.

WILLIAM HUGHES.

Subscribed and sworn to before me this 21st day of August, 1915.

HORACE LEE WASHINGTON,
Consul of the United States of America,
Liverpool, England.

[Seal of the American Consulate.]

[Inclosure 4.]

Affidavit of Peter Dugal.

KINGDOM OF GREAT BRITAIN & IRELAND, COUNTY OF LANCASTER, CITY OF LIVERPOOL, CONSULATE OF THE UNITED STATES OF AMERICA, *ss:*

Peter Dugal, being first duly sworn, doth depose and say as follows:

That I am a native American citizen, born at Mountain Iron, Minnesota, January 25, 1897. That my address is Lamberton, Minnesota. That I sailed as a third-class passenger on the White Star Line S. S. *Arabic* from Liverpool for New York on August 18, 1915. That all went well until the morning of the 19th instant, when at about 9.15 a. m. I was on deck and sighted a steamer in distress and sinking. The *Arabic* altered her course and made towards this vessel. That the *Arabic* had passed this vessel in distress, when at about 9.25 a. m. I personally saw the wake of a torpedo coming towards the *Arabic*, and this torpedo struck the *Arabic* abaft the engine room. That there was a loud ex-

plosion and the vessel at once commenced to sink. That I do further solemnly say under oath that no warning was given of an intention to torpedo the *Arabic* and that no submarine was visible. That I was rescued in one of the *Arabic's* lifeboats and landed at Queenstown at 6.30 p. m. August 19th.

PETER DUGAL.

Subscribed and sworn to this 21st day of August, 1915, before me.

HORACE LEE WASHINGTON,
American Consul, Liverpool, England.

[Seal of the American Consulate.]

[Inclosure 5.]

Affidavit of John J. Olschewski.

CONSULATE OF THE
UNITED STATES OF AMERICA,
Liverpool, England.

I, John J. Olschewski, first being duly sworn, do depose and say as follows:

That I was born in Trenton, N. J., on September 6, 1888. That my residence is 49 Liberty Street, Trenton, N. J. That I was on board the S. S. *Arabic* when she was torpedoed in the Atlantic, and that I was on the top deck, close to the captain's bridge, looking at the steamer which had already been disabled by shell fire. I saw the track of the torpedo and also saw the torpedo strike the side of the vessel. I heard the captain distinctly state to all in hearing to get lifebelts and go to the boats, which I lost no time in doing.

I further assert under oath that the vessel was not warned, and am positive that no one on board saw the submarine. That I got into boat No. 5, and was taken to Queenstown by the British cruiser *Magnolia.*

JOHN J. OLSCHEWSKI.

Subscribed and sworn to before me this 21st day of August, 1915.

HORACE LEE WASHINGTON,
Consul of the United States of America,
Liverpool, England.

[Seal of the American Consulate.]

[Inclosure 6.]

Affidavit of Christopher McTamney.

KINGDOM OF GREAT BRITAIN & IRELAND, COUNTY OF LANCASTER, CITY OF LIVERPOOL, CONSULATE OF THE UNITED STATES OF AMERICA, *ss:*

I, Christopher McTamney, of 821 Lamberton Street, Trenton, N. J., first being duly sworn, do depose and say as follows:

That I am an American citizen, and was born at Trenton, N. J., on the 29th of June, 1887. That I sailed on the White Star steamer *Arabic* from Liverpool for New York on the 18th August, 1915, as a cabin passenger. That immediately after breakfast on the 19th August I was on "B" deck about 9 a. m. and at about 9.25 a. m. I was standing amidships when I saw the track of a torpedo coming directly towards me at a distance of about two hundred yards. The torpedo struck the Arabic just aft amidship, and before the torpedo struck the vessel I state positively, under oath, that no warning whatsoever was given by the submarine, and I did not see the submarine. That I went immediately after the torpedo struck the vessel to the port side of the *Arabic*, and I there advised a lady to get immediately into a boat, and I then ran down to my cabin in order to get some clothes. I got into No. 5 boat and finally landed at Queenstown, whence I proceeded to Liverpool.

CHRISTOPHER MCTAMNEY.

Subscribed and sworn to before me this 21st day of August, 1915.

HORACE LEE WASHINGTON,
Consul of the United States of America,
Liverpool, England.

[Seal of the American Consulate.]

Ambassador W. H. Page to the Secretary of State.

No. 2035.] AMERICAN EMBASSY,
London, August 24, 1915.

SIR: I have the honor to enclose herewith for your information the affidavit of Captain Finch, late of the S. S. *Arabic*.

I have, etc. WALTER HINES PAGE.

[Inclosure.]

Affidavit of William Finch, Captain of the steamship Arabic.

KINGDOM OF GREAT BRITAIN AND IRELAND, COUNTY OF LANCASTER, CITY OF LIVERPOOL, CONSULATE OF THE UNITED STATES OF AMERICA, *ss:*

William Finch, of 10 Parkside, Egremont, Cheshire, England, Master of the steamship *Arabic*, being first duly sworn, doth depose and say as follows:

That the *Arabic* was struck by a torpedo without warning previously given. That no submarine was seen by the *Arabic*. That the *Arabic* did not try to ram the submarine. That the *Arabic* could not have rammed the submarine had it desired to do so. That there was no time or opportunity to have done so. That the *Arabic* did not try to escape. And further, that there was neither time nor opportunity to escape if it had been desired to do so.

I further make oath and say that at 9.25 a. m., Greenwich Mean time, on the morning of August 19th, 1915, I sent a wireless message to the effect that there was a vessel nearby that had evidently been torpedoed, painted grey, with a black funnel with a white band and a black ball in the band, and that there were two boats with sails set steering towards the land, evidently from the distressed vessel. At the time the *Arabic* was torpedoed I was two miles away from this vessel, on a zigzag course, and was going away from her—not towards her. Five minutes after sending this message referred to I observed a torpedo from the starboard side of the Bridge at a distance of about three hundred feet, a little before the Beam. We noticed the torpedo bubbles and a streak from the torpedo coming towards the *Arabic*. The *Arabic* sunk in about ten minutes after the torpedo struck her.

WM. FINCH.

Subscribed and sworn to this twenty-third day of August, 1915, before me.

HORACE LEE WASHINGTON,
American Consul, Liverpool, England.

[Seal of American Consulate.]

Consul Washington to the Secretary of State.

No. 459.] AMERICAN CONSULATE,
Liverpool, August 25, 1915.

SIR: Respectfully referring to the Department's cabled instruction of August 24th, directing a report by telegraph of affidavits in *Arabic* case, and also that affidavits from officers and crew of *Dunsley* be obtained and the substance telegraphed to the Department, I have the honor, referring to two cabled messages of the evening of the 24th,[1] and to one of to-day's date, the 25th,[1] to enclose herewith affidavits of the third officer and two members of the crew of the steamship *Dunsley*, statement of the Captain of the *Dunsley* to the Admiralty representative in Liverpool, and record of the verbal interview with the charterers of the *Dunsley* of Captain and chief officer of that vessel; affidavit of the second officer of the *Arabic* with design [1] attached. A design [1] is also attached to the affidavit of one of the members of the crew of the *Dunsley*.

I have, etc., HORACE LEE WASHINGTON.

[Inclosure 1.]

Affidavit of F. N. R. Gilbert, Third Officer of Steamship Dunsley.

KINGDOM OF GREAT BRITAIN & IRELAND, COUNTY OF LANCASTER, CITY OF LIVERPOOL, CONSULATE OF THE UNITED STATES OF AMERICA.

Frederick Nathaniel Richard Gilbert being first duly sworn, doth depose and say as follows:

That my address is 34 Meaburn Street, Liverpool, England. That I was the third mate of the steamship *Dunsley* when she left Liverpool for Boston, on Wednesday, August 18th last. That all went well until Thursday morning the 19th, up to 6.12 a. m., when I heard the report of a shot. I was then on the bridge. The first shot fell wide of the ship, and went into the water on the starboard side of the bridge. The Captain then came on the bridge and went hard a starboard, leaving the submarine who was firing at us right astern. The submarine fired a third shot, which struck the ship under the quarter. I then hoisted the ensign to the flagstaff. The ship was then stopped as the submarine was still firing. I took the ensign off the flagstaff and was then ordered to man my boat. I left the *Dunsley* and the submarine kept circling around, firing

[1] Not printed.

incessantly; when about two miles away from the *Dunsley* and at about 9 o'clock a. m. a vessel I later learned to be the *Arabic* hove in sight. When I first saw the *Arabic* I estimated she was between four and five miles away, and shortly after I sighted her she started a zigzag course. In my opinion the *Arabic* never approached nearer to the *Dunsley* than two miles. A short time after an explosion took place on the *Arabic*. At the time of the explosion the *Arabic* was broadside to the *Dunsley* and moving away from her.

F. GILBERT.

Subscribed and sworn to this 25th day of August, 1915, before me,
HORACE LEE WASHINGTON,
American Consul, Liverpool, England.

[Seal of American Consulate.]

[Inclosure 2.]

Affidavit of James White, Mess-room Steward of Steamship Dunsley.

KINGDOM OF GREAT BRITAIN & IRELAND, COUNTY OF LANCASTER, CITY OF LIVERPOOL, CONSULATE OF THE UNITED STATES OF AMERICA.

James White, being first duly sworn, doth depose and say as follows:

That my address is 147 South York St., Glasgow, Scotland. That I joined the steamship *Dunsley* at Liverpool August 18th as mess-room steward and sailed in her on that day for New York. That all went well until Thursday morning the 19th instant, when, at about 6 o'clock a. m., a German submarine was sighted. The submarine fired on the *Dunsley* and two men were killed and four injured. The Captain of the *Dunsley* ordered the crew to take to the boats. The submarine kept at a distance of about half a mile from the *Dunsley*. When we got clear of the *Dunsley* the submarine shelled her, but she did not sink. We had been in the boat for two hours when we sighted a White Star steamer, and we thought she would come to our rescue. She was then distant about two miles. She kept on a zigzag course until she got in line with the *Dunsley*. Our boat at that time was about two miles off the starboard side of the *Dunsley* and the submarine was also on the starboard side of the *Dunsley*. When the *Arabic* came abreast of the port side of the *Dunsley* the submarine fired a torpedo at the *Arabic*. The chief engineer of the *Dunsley*, who was in our boat at the time, remarked, "It is all up with her." The

Arabic in making a zigzag course certainly was pointed towards the *Dunsley* but never was nearer to her than two miles, and she did not for any continuous length of time remain on a course direct towards her. I attach a rough drawing of the positions.

JAMES WHITE.

Subscribed and sworn to this 25th day of August, 1915, before me,
HORACE LEE WASHINGTON,
American Consul, Liverpool, England.

[Seal of American Consulate.]

[Inclosure 3.]

Affidavit of Christian Jensen, Fireman on Steamship Dunsley.

KINGDOM OF GREAT BRITAIN & IRELAND, COUNTY OF LANCASTER, CITY OF LIVERPOOL, CONSULATE OF THE UNITED STATES OF AMERICA.

I, Christian Jensen, first being duly sworn do depose and say as follows:

That I was born at Skewe, Denmark, on the 3d August, 1883, and that my present address is at the Sailors' Home, Canning Place, Liverpool. That I left Liverpool, as a fireman, on Wednesday morning, August 18th, on board the steamship *Dunsley*, owned by the London and Northern Steamship Co., 57 Bishopgate, London, and at the time of her being sunk in the charter of the Cunard Line, Liverpool.

That on Thursday morning, the 19th August, 1915, at about 6.30, the *Dunsley* was fired on by a submarine, without warning, at a distance of about half a mile, intimating that the steamer should stop. A second shot fired by the submarine killed the second cook and a fireman. After this the Captain, Phillip Arkley, stopped the ship and ordered the men to the boats. As soon as we got into the boats the submarine circled around the *Dunsley* several times, sending shots into her side, which ultimately sank her. We were two hours in the boats when the steamship *Arabic* of the White Star Line came into sight at a distance of about two and a half miles. When first sighted the *Arabic* appeared to be coming in our direction on a zigzag course and passed the *Dunsley* half a mile astern. After we seen the *Arabic* the submarine submerged and was not seen again by me. This was two hours after we were got into the boats. Immediately after the *Arabic* passed the *Dunsley* an explosion occurred and it could be seen by me that the *Arabic* was settling down at

the stern. I was then a distance of about two miles from the *Arabic*. The *Arabic* in my opinion was not warned.

CHRISTIAN JENSEN.

Subscribed and sworn to before me this 25th day of August, 1915.

HORACE LEE WASHINGTON,
Consul of the United States of America,
at Liverpool, England.

[Seal of the American Consulate.]

[Inclosure 4.]

Statement by Captain Philip Arkley, of Steamship Dunsley.

We left Liverpool for Boston on the 18th August at 6 a. m., and passed the Smalls about 9 p. m. the same day. Course was then shaped W. by S. ½ Mag. so as to pass about 45 miles from the Fastnet.

On the 19th August at 6.15 a. m., when in Lat. 50° 50′ N., Long. 8° 30′ W., a shell was fired from somewhere, which passed over the ship.

At the time the Captain and 3d mate were on the bridge, and a lookout man forward.

A submarine was then observed on the starboard quarter, about 1 mile distant, running well above the surface.

Course was at once altered to bring the submarine astern, and engines worked to maximum speed; the engine room staff working well and willingly.

The submarine rapidly gained on the ship and continued firing, hitting the ship every time in the after part, but the fifth shell carried away part of the bridge and killed the assistant cook and a fireman.

The submarine having now drawn up on the starboard quarter hoisted the signal to abandon ship; she then fired another shot which smashed one of the boats.

There being no other ships in sight, and seeing no chance of escape, and not wishing to sacrifice more lives, I stopped the engines and ordered every one to the boats. This was carried out in perfect order, and as the way came off the ship, having given a back turn to the engine, the two boats were lowered and the ship abandoned.

When the boats were in the water the submarine closed and ordered them to keep clear of the ship, and as soon as this was done, she opened fire again, firing some 10 or 12 shots into the hull. The ship then com-

menced sinking by the head until the propeller was some 6 feet out of water, when she remained in this position.

The boats remained at about two to three miles from the ship under sails and oars, but as the submarine continued to steam round the ship without going alongside, no attempt was made to return to her.

About 9 a. m. a large steamer hove in sight to the northeastward, which proved to be the steamship *Arabic*, and soon afterwards they observed an explosion on board her, and not long afterwards she disappeared.

After the *Arabic* had sunk we sighted the same submarine again cruising in the vicinity of the *Dunsley*. She was about 200 feet long, with 2 guns, one before and the other abaft the Conning tower, a small spar for wireless, painted slate color, no number visible, and no signs of any mines on deck.

At 11 a. m. the *Dunsley* was still afloat, but not having any reason for remaining in the locality the boats were headed for the land, and at 5 p. m. the steamship *Howth Head* of Belfast picked us up and towed the boats towards Galley Head until 7.30 p. m., when torpedo boat *No. 052* came up and took the crew on board, turning over the boats to a mine sweeper, which arrived shortly afterwards.

We landed at Queenstown about 10 p. m., where six men who had been wounded by shell fire were attended and four of them taken to hospital.

I certify this to be a copy of the original statement made to Capt. G. C. Frederick, R. N. Admiralty Representative, Liverpool.

HORACE LEE WASHINGTON,
American Consul, Liverpool, England.

[Seal of American Consulate.]

[Inclosure 5.]

Report of Verbal Interview with the Officers of Steamship Dunsley.

CUNARD STEAMSHIP COMPANY (LTD.),
GENERAL MANAGER'S OFFICE,
August 21, 1915.

STEAMSHIP DUNSLEY.

The captain and chief officer of the above vessel have been in this morning. It appears that they did not see the submarine until she came above the water and immediately commenced to shell them with two

guns. The first shot hit the *Dunsley* amidships. Then they brought the submarine astern and kept her there as best they could, but she went on shelling the ship, and while one or two shells missed, about six or seven altogether took effect; the last one practically blowing away the bridge. They then got the order from the submarine to abandon the ship as she was sinking fast. They took to the boats and the submarine continued to steam round the sinking boat. The *Arabic* was on the port quarter, and although he headed away, the submarine was too quick for him and the first torpedo apparently took effect. The crew of the *Dunsley* were about half a mile off when the *Arabic* sunk. There was a big explosion as she went down.

The chief officer says that the reason so many were saved on the *Arabic* was doubtless owing to the fact that they had been watching the *Dunsley* sink and had everything ready in the boats for lowering. The cook and the fireman of the *Dunsley*, who are lost, were killed by shell fire. One of the apprentices is in Queenstown Hospital in a very serious condition, and there are other minor casualties, the chief officer himself being shot in the leg.

I certify this to be a copy of the record of the verbal interview recorded in the General Manager's office, Cunard Steamship Company, time charterers of steamship *Dunsley*, with captain and chief officer of that vessel.

HORACE LEE WASHINGTON,
American Consul, Liverpool, England

[Seal of American Consulate.]

[Inclosure 6.]

Affidavit of Frederick Fowler Steele, Second Officer of Steamship Arabic.

KINGDOM OF GREAT BRITAIN & IRELAND, COUNTY OF LANCASTER, CITY OF LIVERPOOL, CONSULATE OF THE UNITED STATES OF AMERICA, *ss.*

Frederick Fowler Steele, being first duly sworn, doth depose and say as follows:

My residence is Urmston, Hoyle Road, Hoylake, Cheshire.

I left Liverpool on August 17, 1915, as second officer of the steamship *Arabic*.

We sighted the steamship *Dunsley* at about 9 o'clock on the morning of Thursday, August 19. I came on the bridge at 8 a. m., and was on the bridge. I sighted a vessel on the starboard bow, about seven miles away,

which we thought was heading for Queenstown, but which we later ascertained was the *Dunsley*. On approaching nearer to the vessel we found out that the vessel was sinking, going down by the head, and that her name was the *Dunsley*—this we ascertained by personal observation. The captain of the *Arabic* ordered me to work out a position for the *Dunsley*, so I worked one up for 9.25 a. m., which was 50.49 N. and 8.29 W. The captain told me to ring up the Marconi room and to tell the operator to send out a message at once that a steamer had been attacked and was sinking. At this time the *Dunsley* was about two miles away. We then noticed that the *Dunsley's* lifeboats had left the ship, and this confirmed our suspicions that she had been torpedoed. When I came out of the chart room, I went to the starboard side of the bridge and passed the remark to the captain that he must be about somewhere waiting for us—meaning the submarine. We had five men on the look-out at the time. After speaking to the captain, I walked to the starboard end of the bridge and immediately clearly saw a bubbling disturbance in the water, and I also saw a torpedo traveling towards the ship, which apparently had been fired to hit her about the engine room. I attach a design [1] indicating the track of the torpedo. I state positively that the *Arabic* never attempted to go to the *Dunsley* to effect a rescue. The *Arabic* was on a varying course, according to the commander's orders, as a precaution against submarine attack. Immediately after the torpedo was sighted the order was given "hard a starboard" which turned the *Arabic* away from the presumed direction of the submarine.

I further make oath and say that at the time the *Arabic* was struck by the torpedo she was moving away from the *Dunsley*.

F. F. STEELE.

Subscribed and sworn to this 25th day of August, 1915, before me,

HORACE LEE WASHINGTON,
American Consul, Liverpool, England.

[Seal of American Consulate.]

Ambassador W. H. Page to the Secretary of State.

No. 2052.] AMERICAN EMBASSY,
London, August 27, 1915.

SIR: I have the honor to enclose herewith a sworn affidavit made by Second Officer William Watt Dockar of the steamship *Dunsley*, regarding

[1] Not printed.

the sinking of the steamship *Dunsley* and the steamship *Arabic* on Thursday, August 19, 1915.

I have, etc., WALTER HINES PAGE.

[Inclosure.]

Affidavit of Wm. Watt Dockar, of the steamship "Dunsley."

STATEMENT BY SECOND OFFICER WM. WATT DOCKAR, OF THE STEAMSHIP "DUNSLEY," REGARDING THE SINKING OF THE STEAMSHIP "DUNSLEY" AND THE STEAMSHIP "ARABIC" ON THURSDAY, AUGUST 19, 1915.

We were proceeding in a westward direction in latitude 50° 50′ north and longitude 8° 30′ west about 45 miles off Kinsale on the Irish coast on Thursday, the 19th of August. At 6.15 a. m. we suddenly heard a shell bursting over our heads and striking the bridge. We discovered a submarine 100 yards distant on the starboard side, which continued to shell for six or seven shells, killing two men and wounding six others. After the submarine had fired about six shells into the *Dunsley*, and while she was firing the shells, she put up a signal, "Abandon ship immediately." We then stopped the steamer, lowered the port boat which dropped astern, and were spoken to by the submarine, which enquired from the 3rd officer if all of the crew had left the ship. He replied "No; half are still on board." The submarine was then 10 or 12 yards from the 3rd officer's boat. He said get away from the ship as soon as possible for fear of an explosion. We then lowered the starboard boat and got clear of the ship, when they continued to shell until they had put about twenty-five shells through the vessel. The submarine continued to circle around the steamer. We estimated the submarine to be 200 feet long and counted about 15 men on deck, and also saw two mounted guns, one on each end.

At about 8.30 we saw a big four-masted steamer proceeding toward the *Dunsley*. We saw the submarine hiding on the starboard side of our ship, away from the approaching ship. We saw her submerge and saw the torpedo being fired, striking this big four-masted vessel. We could plainly see the swish of the torpedo going from the submarine to the large vessel. It struck the large vessel on the starboard quarter. When we first sighted the *Arabic* she was following a straight course. When she sighted the *Dunsley* she then altered her course slightly towards us, in order, we thought, to read the name of our vessel. As the *Dunsley*

was between the submarine and the *Arabic* it was absolutely impossible for the *Arabic* to have seen the submarine, or to have received any warning from her. The ship sank, as far as we could estimate, in 5 minutes from the time of being torpedoed. We thought on account of the vessel sinking so suddenly that no one could have been saved.

We proceeded towards the land, and when 20 miles off the land we were picked up by the steamship *Howth Head* at 5 p. m., and at 7 p. m. we were met by the torpedo boats and two patrol boats.

I solemnly swear that the above stated facts are true to the best of my knowledge and ability.

WM. WATT DOCKAR.

Sworn before me this 26th day of August, 1915, at the American Embassy, London.

EUGENE C. SHOECRAFT,
Third Secretary of Embassy.

[Seal of the American Embassy.]

Ambassador W. H. Page to the Secretary of State.

No. 2071.] AMERICAN EMBASSY,
London, August 31, 1915.

SIR: I have the honor to enclose herewith the affidavit of Richard G. Pybus, chief officer of the steamship *Dunsley*, which was sworn to in Whitby on August 27, 1915, before Charles M. Hathaway, Jr., American Consul, Hull.

I have, etc.

WALTER HINES PAGE.

[Inclosure.]

Affidavit of Richard G. Pybus, Chief Officer of Steamship "Dunsley."

Richard Gray Pybus, being duly sworn, deposes and says:

I was chief officer of the steamship *Dunsley*, which left the river Mersey at 6 a. m. on August 18 for Boston, Mass., U. S. A. At 6.12 a. m. August 19, without warning, we were shelled by a submarine. After firing 6 shots and killing two men and injuring 6 others, the submarine

put up signals for us to abandon our vessel immediately. At about 6.40 we left the ship in two lifeboats. The Captain took command of the starboard boat, I of the port. We stood by, and the submarine put some eighteen more shots in the *Dunsley*, circling around her meanwhile. A little after half past eight we sighted a steamer to the eastwards. She approached on a westerly course, and a few minutes after we sighted her appeared to change her course several times. She was evidently a large ship. She passed the *Dunsley* on a general westerly course, about one and a half miles to the south. Our two boats were on the landward side of the *Dunsley*, mine about 100 yards to the southward of the captain's and from a half mile to a mile from the *Dunsley*. Just after the large steamer came into full view from my boat after passing the *Dunsley*, and when she was about S. SW. from the *Dunsley*, I saw a violent explosion on her starboard side which threw up much water. I looked at my watch and it recorded 9.22, and at 9.28 she vanished.

About ten minutes after we sighted the steamer to the eastward I lost sight of the submarine, which had up to that time continued to circle about the *Dunsley*. A few minutes before the explosion I saw the submarine again under the *Dunsley's* starboard bow, where she could not be seen from the approaching steamer. It appeared to me that the submarine was lying in wait for the approaching steamer and my whole attention was fixed on the steamer until she was blown up. After the steamer was blown up I noticed that the submarine was no longer visible. I last saw her some time between 9 and 9.15, but just when she vanished I did not observe. She was lying in the shadow of the *Dunsley*, so that it was easy for her to submerge without attracting our attention. We continued to stand by the *Dunsley* until about 11 o'clock, when we pulled for land, leaving the *Dunsley* in Lat. 50. 50 N., Long. 8.30 W. I did not see the submarine again after the sinking of the large steamer. We did not learn that it was the *Arabic* until we were picked up by a British torpedo boat about 7 o'clock that night. I was unable to detect any mark of identification on the submarine, though I looked carefully with the intent while I was close to her.

RICHARD GRAY PYBUS.

Subscribed and sworn before me at Whitby, England, being within my district, this 27th day of August, 1915.

CHARLES M. HATHAWAY, JR.,
American Consul, Hull.

[Seal of the American Consulate.]

Ambassador W. H. Page to the Secretary of State.

No. 2072.] AMERICAN EMBASSY,
London, August 31, 1915.

SIR: I have the honor to enclose herewith the affidavit of Philip O. Arkley, master of the steamship *Dunsley*, sworn to at West Hartlepool on August 26, 1915, before Hans C. Nielsen, American consular agent at West Hartlepool.

I have, etc., WALTER HINES PAGE.

[Inclosure.]

Affdavit of Philip Orren Arkley, Master of Steamship "Dunsley."

I, Captain Philip Orren Arkley, late master of the steamship *Dunsley*, of London, being duly sworn depose and say that I left Liverpool on the eighteenth day of August, 1915, with a small portion of General cargo (about 350 tons), bound for Boston, Mass., U. S. A. All went well up to 6.12 a. m. on the 19th August, when a shell went over us between the masts. I looked around and saw a submarine about a mile away on our starboard quarter, not having seen anything previously. Our course then was W. ¼ N. about 40 miles south of Galley Head. I starboarded and brought the submarine right astern and made all possible speed to get away. He continued shelling us, hitting the ship every time. One shell bursting over the bridge killed two men and injured several others. He was then rapidly overtaking us and the next shell carried part of the upper bridge away. I then considered it impossible to escape and stopped the engines. The submarine signalled to abandon the ship, which we did about 6.40 a. m. I took charge of starboard boat and the Mate R. G. Pybus of the port boat. He fired one shell while the boats were being lowered. The submarine was then on our Port Side and spoke to the Port lifeboat, asking particulars where the ship was from and where bound, and ordering the boats to get away as quickly as possible. He then commenced firing away and put about 12 more shells into the *Dunsley*. She then commenced sinking slowly forward until the bows were awash and stern high out of the water. He rowed clear of the ship and then remained in the vicinity on the Northerly side of the *Dunsley* towards the shore. I looked particularly, but was unable to see any number or distinguishing mark on the submarine. At about 8.30 a. m. while dodging about in our lifeboats under sail we saw the *Arabic* coming

along from the Eastward. Shortly after sighting the *Arabic* we missed from sight the submarine, which had been circling round the *Dunsley* all this time. As the *Arabic* was passing the *Dunsley* about due South and some 2 to 3 miles off my crew in the boat told me (at the time) that they saw the submarine come clear of our ship and submerge, just as if she had been hiding behind the *Dunsley* whilst the *Arabic* was approaching. I did not notice this manoeuver myself. Shortly afterwards I saw the explosion on the *Arabic*, presuming him to have been torpedoed by the same submarine that attacked the *Dunsley*. The *Arabic* commenced sinking rapidly by the stern and disappeared in about 6 or 7 minutes. I should judge that the *Arabic* was about 7 miles to the Eastward when I first saw her, and that it was about 40 minutes later that the explosion took place. It was a beautiful clear morning. I still kept dodging about until 11 o'clock and then made for the land. The last I saw of the *Dunsley* was about 11.30 o'clock, when she was still afloat. She was then in latitude 50. 50 N. and 8. 30 West.

The *Arabic* passed about 2 to 3 miles South of my vessel steering a westerly course. I should judge she was about South West of the *Dunsley* when the explosion occurred. I did not see the submarine after the *Arabic* was hit. I had no doubt in my own mind then nor have I now that the *Arabic* was torpedoed by the same submarine that attacked the *Dunsley*.

PHILIP O. ARKLEY,
Master.

Subscribed and sworn to before me at the American Consular Agency at West Hartlepool, England, on the 26th day of August, 1915.

HANS C. NIELSEN,
American Consular Agent.

[Seal of the American Consular Agency.]

The German Ambassador to the Secretary of State.

[Translation.]

J Nr. A 6512.] GERMAN EMBASSY,
Cedarhurst, N. Y., October 20, 1915.

MR. SECRETARY OF STATE: In compliance with my instructions, I have the honor to forward herewith for Your Excellency's information

the following papers concerning the sinking of the British steamer *Arabic*.

1. Certified copy of the report of Captain Lieutenant Schneider, Submarine Commander, of the 2nd of this month with an English translation.

2. Certified copy of the minutes of the examination of witnesses in the case of the sinking of the English steamer *Arabic* by a German submarine, of the 21st of this month, with an English translation.

Accept, etc., J. BERNSTORFF.

[Inclosure 1.]

Report upon the sinking of the English steamer Arabic.

On the 19th of August I was lying some 60 miles south of Kinsale beside the steamer *Dunsley* and was about to sink this steamer, after her crew had left her in two lifeboats, by means of gun-fire, when I saw a steamer of some size at considerable distance coming towards me on a southwesterly course. I drew away from the *Dunsley*, first proceeding above water, then in a submerged condition towards the course line of the sighted steamer, in order to obtain her course by bearing her masts in line. As she drew nearer, I saw that the steamer was painted grey, superstructures were not recognizable. The steamer flew no flag; signs of neutrality and names could not be made out. As the steamer approached the *Dunsley* she took her course directly towards this vessel then suddenly altered her course again and came directly towards me. In my opinion it would have been impossible to have taken aboard the occupants of the *Dunsley's* lifeboats in the short interval of time that elapsed between altering the course toward the *Dunsley* and again steering towards me. That the *Dunsley* had been attacked must have been perceived from the steamer, since its forepart was already quite deep in the water. The behavior of the steamer appeared therefore very suspicious to me and forced me to conclude that she had observed me and intended to ram me. I was the more convinced of this, since only as recently as August 14th, 1915, I was attacked by gun-fire in the Irish Sea by a large steamer which apparently belonged to the British "Royal Mail Steam Packet Co.," and this without the slightest provocation. I therefore anticipated the expected ramming of this steamer by attacking it under water. The torpedo struck; the ship sank rapidly. After the discharge of the torpedo I saw a large number of boats—about fifteen—which were nearly all filled. The weather was good. The boats set sail and made for the coast.

It was only after my return that I learned from the newspapers that the steamer which had been sunk in the vicinity of the *Dunsley* had been the *Arabic*.

SCHNEIDER, *Commander.*

BERLIN, *September 2nd, 1915.*

[Inclosure 2.]

Certified copy of examination of witnesses.

BERLIN, *September 21st, 1915.*

In the matter of the sinking of the English steamer *Arabic* by a German submarine, the following witnesses appeared to-day before Judge Kammerich of the Naval Court as Chief Examiner and Able Seaman Wolf as Recording Clerk.

After these witnesses had been reminded of the importance and sanctity of the oath they were each singly examined as follows, none of them in the presence of the other witnesses:

1. COMMANDER SCHNEIDER OF THE GERMAN SUBMARINE.

Regarding Identity: My name is Rudolf Schneider. I was born on February 13th, 1882, at Zittau in Saxony. My religion is Lutheran. I have never been punished by process of law.

Regarding the Facts: Early on the morning of August 19th, 1915, I sighted an English steamer at dawn, about 40 nautical miles south of Kinsale. The steamer was in a position which would have enabled me to approach her only above water. I ordered the signal to be given: "Leave the ship at once," fired a warning shot, and observed that the steamer thereupon turned about and made off. By firing about ten shots I then forced her to stop and ascertained that it was the English steamer *Dunsley*. I gave the crew time to leave the ship in their own boats and then took her under gunfire until she was leaking. The weather was so fair that the crew were able to take to their boats in absolute safety. The boats set sails and made for the shore.

While I was still lying by the *Dunsley* and waiting to see whether she would sink, I saw a steamer of some size at a considerable distance advancing towards me. I steamed away from the *Dunsley* towards the course of the sighted steamer at first, for about a quarter of an hour, above water, then in a submerged state, intending to obtain her course by bringing her masts to bear in a line. As she drew nearer I saw that she was painted grey; superstructures were not recognizable. The steamer

flew no flag; signs of neutrality and names could not be made out. As the steamer approached the *Dunsley* she took her course directly towards this vessel; then suddenly altered her course again and came directly towards me. In my opinion it would have been impossible to have taken aboard the occupants of the *Dunsley's* lifeboats in the short interval of time that elapsed between altering the course toward the *Dunsley* and again steering towards me. This turning of the steamer towards the *Dunsley* and then the sudden alteration of course towards me, without paying the least attention to the lifeboats, were the more extraordinary, inasmuch as steamers which, according to the nature of the situation, must assume that submarines are in the neighborhood, are accustomed to remove themselves with all possible speed and on a course in accordance with this purpose from the assumed vicinity of the submarines. I have myself observed on numerous occasions this manœuvre on the part of enemy vessels.

That the *Dunsley* had been attacked must have been observed from the second steamer, since the *Dunsley's* bow was already lying deeply in the water. The steamer now came directly towards me, so that the position of my submarine would have made it possible for her to ram me. She could also have observed me, since I had not only traveled above water for a quarter of an hour upon first leaving the *Dunsley*, but had subsequently been repeatedly obliged to show my periscope. I was, therefore, firmly convinced that she intended to ram me. I was the more convinced of this, since only as recently as August 14th of this year I was attacked in the Irish Sea by a large steamer which, without the slightest provocation, opened gunfire upon me. In order to forestall my being rammed I therefore determined to attack the steamer below water. I made a turn towards the north and fired a bow torpedo at her at right angles to her course. Through the periscope I estimated the angle for a speed allowance of twelve nautical miles, since I held the speed of the steamer to be a middling one. The torpedo struck her starboard quarter; the vessel sank rapidly. After the torpedo had been discharged, a great number of boats were observed—some fifteen—nearly all of which were completely filled. The weather was so good that in my opinion the safety of the people in the boats was assured.

That it was the *Arabic* which was concerned in these events I learned only several days after my return, upon reading the newspaper reports, by which I saw that the *Arabic* had been sunk in the neighborhood of the *Dunsley*.

In Answer to Questions: A considerable time before the occurrence which has been described, I had received order to spare large passenger steamers. The order that no passenger steamer at all was to be attacked without warning is of more recent date. In accordance with this order I had already, prior to the sinking of the *Arabic*, permitted several large passenger steamers, which I might have attacked, to pass by unmolested. For example, during the course of a previous distant cruise near the entrance to the Bristol Channel, I had permitted a large passenger steamer which I recognized as such to escape without molestation, despite the excellent opportunity afforded for attacking it. I may cite another instance which occurred during that cruise on which I sank the *Arabic*. On the 14th of August of this year, in the Irish Sea, I sighted a large steamer astern. She belonged apparently to the Royal Mail Packet Company, and offered me an excellent chance to place myself in her path and attack her. But I recognized her as a passenger steamer, allowed her to pass by, and then took up a course which led away from her. In connection with this I would mention the fact that this steamer began on her own part to open upon me with artillery as soon as I found myself in a position from which I could no longer attack her.

Upon presentation of the Testimony of witnesses as transmitted by the American Ambassador.

In re No. 1, 2: The *Arabic* continued to approach the *Dunsley* until she again took up the course towards me, whereupon she once more left the *Dunsley*. As to within what distance she approached the *Dunsley* I can not exactly say. When the torpedo was fired, I was some five nautical miles distant from the *Dunsley*. The course of the *Arabic* was altered at least twice; my impression of the *Arabic's* course is indicated upon the accompanying sketch.[1]

In re No. 3: As I have already explained, upon sighting the *Arabic* I at once proceeded to leave the *Dunsley*, traveling first above, then below, water. Not for a single moment did I make any attempt to conceal myself behind the *Dunsley*.

In re No. 4: It is, of course, impossible for me to give an absolute denial to the assertion that my submarine was not seen from the *Arabic;* but the movements made by the ship forced me to conclude that I had been seen and attacked.

In re No. 5: Since I was threatened by the steamer, I could not think of warning her. Had I risen to the surface under the circumstances that

[1] Not printed.

prevailed it would have meant nothing less than the destruction of my vessel.

In re No. 6 and 7: That the torpedo was not discharged at the *Arabic* from any great distance, was due to the ramming position of that vessel.

I make the foregoing declaration upon my oath of allegiance and give further assurances as to its correctness by swearing to that effect.

Read aloud, attested, and signed,

SCHNEIDER,
Commander.

2. FIRST NAVAL LIEUTENANT LÖWE.

Regarding Identity: My name is Werner Lowe, I was born on July 4th, 1889, at Landsberg on the Warthe; my religion is Lutheran; I have never been punished by process of law.

Regarding the Facts: I was the Officer of the watch on the submarine when the *Dunsley* was sunk. While we were still lying by that ship, another steamer came in sight. We thereupon at once started our engines, and at first proceeded on the surface in a somewhat southerly direction. We traveled above water for about a quarter of an hour at half speed and full speed; we then submerged. From this moment on I was stationed at my post of action and saw nothing further of those proceedings which led to the sinking of the steamer.

Upon presentation of the testimony of witnesses as transmitted by the American Ambassador:

It is not true that the submarine concealed itself even for a moment behind the *Dunsley*, or that it submerged behind the *Dunsley*. From that moment in which the *Arabic* could have sighted us, the *Dunsley* could not possibly have lain between the *Arabic* and the submarine.

I make the foregoing declaration upon my oath of allegiance and give further assurance as to its correctness by swearing to that effect.

Read aloud, attested, and signed,

LÖWE.
First Naval Lieutenant.

3. NAVAL LIEUTENANT VATER.

Regarding Identity: My name is Werner Vater; I was born on May 29th, 1893, at Rudolstadt in Thuringia; my religion is Lutheran; I have never been punished by process of law.

Regarding the Facts: On the morning of August 19th of this year, in

my capacity as Gun Officer of the submarine, I fired a warning shot at the English steamer *Dunsley*. The steamer thereupon veered off and sought to escape with full speed. She was then subjected to gunfire and stopped at the first shot that took effect. The crew left the ship in boats, set sail, and steered for the coast. The weather was very calm. The steamer was then taken under unfire until she was leaking. Whilst we were watching her sink, a large steamer came in sight. I went to the bridge. We at once proceeded above water on a southerly course for about fifteen minutes after leaving the *Dunsley* and then dived. I went to the station assigned me during submersion and saw nothing more of the steamer. During our progress under water I heard the Commander announce at the central station: "The steamer is changing her course."

Upon presentation of the testimony of witnesses as transmitted by the American Ambassador:

The submarine did not hide behind the *Dunsley;* according to my point of view, the crew of the *Dunsley* must still have been in a position to see from their boats that we left the sinking ship under a considerable speed.

I make the foregoing declaration upon my oath of allegiance and give further assurance as to its correctness by swearing to that effect.

Read aloud, attested, and signed.

VATER,
Naval Lieutenant.

4. NAVAL STAFF ENGINEER PETERS.

Regarding Identity: My name is Hans Peters; I was born on December 23rd, 1884, at Lütjenburg in Holstein; my religion is Lutheran; I have never been punished by process of law.

Regarding the Facts: On the morning of the 19th of August of this year, the steamer *Dunsley* was pursued, with our engines working at high pressure, above water, and overtaken. After the steamer had stopped, our engines were converted for submerged travel at 41 minutes past 7 o'clock, since we could not maneuver in a reliable manner with our surface engines during our attempts to sink the steamer by gunfire. On the appearance of another steamer I received orders once more to again switch on the engines for travel on the surface. From 46 minutes past 9 o'clock to 58 minutes past 9 o'clock a. m. we traveled, partly under full engine capacity, above water on a course that led us away from the

Dunsley. At 58 minutes past 9 o'clock a. m. the submarine was got ready for submersion, and then dived. From this time until 12 o'clock noon the submarine remained under water. After we had dived I was not able to see anything further of what took place. I merely heard the Commander announce in the central station that the steamer had changed her course.

Upon presentation of the testimony of witnesses as transmitted by the American Ambassador:

That our submarine kept itself concealed behind the *Dunsley* is a statement which is negatived by the declaration I have made, based upon the entries made by me in the official engine-room log book.

I make the foregoing declaration upon my oath of allegiance and give further assurance as to its correctness by swearing to that effect.

Read aloud, attested, and signed.

PETERS,
First Naval Engineer.

5. SUBMARINE HELMSMAN HEINRICH.

Regarding Identity: My name is Fritz Heinrich; I was born on May 30th, 1888, at Bitterfeld, in the district of Bitterfeld; my religion is Lutheran; I have never been punished by process of law.

Regarding the facts: On the morning of August 19th, 1915, I was on the bridge of the submarine, when we pursued the *Dunsley* after having warned her, and finally forced her to stop. I observed that the crew left the ship in their own boats and sailed towards the land, whilst we circled about the *Dunsley* waiting for her to sink. The weather was good. While we were waiting, a new steamer came into sight a considerable distance off. We left the *Dunsley* under a pretty good speed, following a somewhat southerly course, until the masts of the oncoming steamer bore in line; and then we dived. I saw nothing further of the sinking of the vessel, although the Commander a little later permitted me to look through the periscope, remarking that the steamer was sinking gradually. But I could only see a small section of the bow. Later on I counted the number of boats.

I make the foregoing declaration upon my oath of allegiance and give further assurance as to its correctness by swearing to that effect.

Read aloud, attested, and signed.

HEINRICH,
Submarine Helmsman.

6. SUBMARINE BOATSWAIN'S MATE PREUSS.

Regarding Identity: My name is Albert Preuss; I was born on October 21st, 1892, at Peine; my religion is Lutheran; I have never been punished by process of law.

Regarding the Facts: After the bombardment of the *Dunsley* I was mounting guard upon the turret of the submarine, when I saw a cloud of smoke and several masts upon the horizon. I reported this to the officer of the watch. Hereupon the engine crew were sent below decks to start the oil engines going. I then noticed that we traveled for about 10 minutes on the surface with high speed in a direction away from the *Dunsley*. Then came the order: "Ready to Dive!" and I went below decks. From that moment on I saw nothing further of what went on above water. I was then ordered to mount watch at the underwater rudder and noticed that we kept on the same course for quite a long time.

I make the following declaration upon my oath of allegiance and give further assurance as to its correctness by swearing to that effect.

Read aloud, attested, and signed.

PREUSS,
Submarine Boatswain's Mate.

7. SUBMARINE ABLE SEAMAN BRANDT.

Regarding Identity: My name is Johannes Brandt; I was born on December 17th, 1892, at Postmoor near Horneburg; my religion is Lutheran; I have never been punished by process of law.

Regarding the Facts: After the boats had left the *Dunsley* we fired shots at the steamer. When a new steamer had been reported in sight, we left the *Dunsley* at high speed, above water. After some ten minutes we made ready to dive and had to go to our diving posts. My fighting post is towards the front in the torpedo room. After I had taken my place there, I was not able to see anything more of what went on above water.

I make the foregoing declaration upon my oath of allegiance and give further assurance as to its correctness by swearing to that effect.

Read aloud, attested, and signed.

BRANDT,
Submarine Able Seaman.

8. SUBMARINE SEAMAN DOBBERT

Regarding Identity: My name is Ernst Dobbert; I was born on September 22nd, 1897, at Potsdam; my religion is Lutheran; I have never been punished by process of law.

Regarding the Facts: I am a gunner and fired at the *Dunsley* during the chase and until she hove to. After the boats had left the ship, I once more bombarded her. As a cloud of smoke became visible, we had to suspend our fire. We then traveled at full speed for some ten minutes above water from the spot where the *Dunsley* was lying. During this time I fastened my gun. Then came the order: "Make Ready for Diving!" and since my fighting post is in the front torpedo room, I could not see anything further of what happened above.

I make the foregoing declaration upon my oath of allegiance and give further assurance as to its correctness by swearing to that effect.

Read aloud, attested, and signed.

DOBBERT,
Submarine Seaman.

Closed.

WOLF,
Able Seaman.
KAMMERICH,
Judge of the Naval Court.

Appendix B.

EVIDENCE IN THE SUSSEX CASE.

Ambassador Sharp to the Secretary of State.

[Telegram—Paraphrase—Extract.]

American Embassy,
Paris, March 28, 1916.

Mr. Sharp reports that he has been informed officially by the French Foreign Office that the steamship *Sussex* was not armed and further that channel passenger steamers have not been and are not armed. After having made a careful examination of the *Sussex* at Boulogne, Maj. Logan and Lieut. Smith have reported that they could see no indications on the vessel of any gun mountings.

Report of Assistant Naval Attaché Smith to Ambassador Sharp.

American Embassy,
Paris, March 30, 1916.

Sir: I have the honor to submit the following report in regard to the torpedoing of the steamship *Sussex:*

The principal questions upon which the investigation was conducted were:

1. What flag did the *Sussex* fly?
2. Was she armed?
3. Were any American citizens among those killed or missing?
4. Was the *Sussex* struck by a fixed or floating mine, or by a torpedo?

The following conclusion has been arrived at by careful investigation:

1st. As sworn to by crew and passengers, the *Sussex* carried the French flag.

2d. Crew and passengers stated that she was not armed. A careful investigation showed that no armament (machine guns or cannon) were carried on that part of ship now remaining. The entire forward

part of the ship, from the foremast to the stem, was blown away. A thorough investigation leads to believe that no gun was carried on that part of the ship destroyed.

3d. As far as can be ascertained, no Americans are amongst those missing. The bodies of those killed have all been identified to be foreigners.

4th. The question as to whether the ship was struck by a mine or torpedo still remains undetermined. The following course of deduction has been followed, in order to eliminate any possible error:

1. Internal explosion.
2. Fixed mine.
3. Floating mine.
4. Torpedo.

1. The ship has been carefully examined, and no injury found aft of No. 2 water-tight bulkhead, thus eliminating any cause from boiler explosion. That part of the ship destroyed contained a small cargo compartment. A careful search among the débris showed only mail, cloth used for the construction of balloons or aeroplanes, wire for aeroplane construction, and one or several motorcycles.

The captain also declares that no explosives were carried; that a total cargo of three tons was on board, which included mail for India, aeroplane fabric and wire, and some material for the State railroad; also the character of the explosion showed positively that there was no internal explosion. This in part proves that no internal explosion occurred.

2. Fixed mines, according to all practices and usages, are placed at a certain distance below the surface; this is said to be about 10 to 15 feet at low water. The ship at the time of the accident was in 60 feet of water; the record of the rise and fall showed that the tide was full at 1.37 p. m., March 24, and at 2.50 p. m. was about 25 feet above low water level. It is also claimed that this was an exceptional high tide. This gives that a mine would be at least 30 feet below the surface of the water at the time of the explosion. At the time of leaving Folkestone, the *Sussex* was drawing about 11 feet astern. This eliminates the possibility of the fixed mine.

3. An investigation of the ship's hull showed a large dent between the turn of the bilge and the keel, about 5 to 6 feet below the water-line, and from this indentation the character of the injury showed that this was evidently the point of impact of the explosive. This could not have been produced by a floating mine, as a floating mine, due to its charac-

teristics, contains considerable positive buoyancy and would be found on the surface of the water.

4. The investigation and examination of the hull showed that the ship had received a very heavy blow between the turn of the bilge and keel, just forward of No. 1 water-tight bulkhead, and seems to have come from abaft the beam and to have had a converging course with that of the ship. From the point of impact forward, the entire hull was blown away; the force of the explosion carried upward and toward the stern, completely wrecking that part of the ship between No. 1 and No. 2 bulkheads.

From the character of the injury it is impossible to determine positively that this was done by a torpedo but all evidence leads to believe that it was.

Several pieces of bronze, and two large bronze bolts, numbered and lettered, were found, from which a comparison can be made with German torpedoes now in the hands of the French, which would eliminate any trace of a doubt.

Photographs have been taken and will be submitted with a later report.

I have, etc.,

B. L. Smith,
First Lieutenant, U. S. M. C.,
Assistant Naval Attaché.

Mr. de Margerie of the French Ministry of Foreign Affairs to Ambassador Sharp.

[Translation.]

Mr. Ambassador: Your Excellency was good enough to ask me on the 28th of this month by direction of your Government whether the steamer *Sussex*, of the French line crossing between Dieppe and Folkestone, was armed during the voyage accomplished on the 24th of March, in which she was damaged by an explosion. Your Excellency was good enough at the same time to ask me whether steamers carrying passengers between English and French ports on the channel are customarily armed.

I have the honor to inform Your Excellency that the *Sussex* carried no kind of armament, and that, in a specific manner, the passenger

steamers making the channel service between France and England are not armed.

With the assurances, etc.,

P. DE MARGERIE.

PARIS, *March 29, 1916.*

Affidavit of Edward H. Huxley and Francis E. Drake.

AMERICAN EMBASSY,
London, March 25, 1916.

At 5 minutes past 3, when we were about an hour and a half from Folkestone, we were seated on the deck talking, a little less than halfway back on the starboard side. Without the slightest warning there occurred a loud, roaring explosion. Wreckage and tons of water were thrown into the air higher than the masts, and the water came down on the boat as far back as the stern. We went forward and saw the entire forward part of the ship, including part of the bridge and the forward mast, gone. Some men and women jumped overboard at once, and we threw over rafts and seats to them. We then went to help get the women into the lifeboats and afterwards to help the wounded out of the débris. We saw at least 15 severely wounded and helped with 5 ourselves. Among these were Dr. Penfield and Miss Baldwin. Altogether 6 boats were launched. One of these capsized with its passengers. We suppose 25 or 30 people were lost in this boat. We helped lower 1 boat ourselves. Of the remaining 5 boats, 3 were filled with passengers and standing off about 100 yards. Of the other 2, 1 was nearly full of water and contained only 5 men. We did not see the sixth boat. We know of only 3 Americans who got into the lifeboats—Mr. and Mrs. Baldwin and Miss Baldwin. After 10 minutes of watching we decided that as the ship was apparently not sinking, we would stay with her. After the small boats had been standing by for an hour, they were hailed and the people brought back on board.

About dusk a sailing vessel 3 miles away, which had been standing by for some time, was signaled by rockets and waving of blankets. At least 30 exploding rockets with colored flares were sent up during the evening, but the ship continued her course and disappeared in the distance. The wireless remained intact, though the operator said it was very difficult to receive because the forward mast was gone and the an-

tennæ were loose. The boilers remained intact, as we could see the steam from the escape pipe, and the electric lights burned until we left the ship.

At 11.30 a French ship came up and took off the women and children and half the men, and Miss Baldwin, who was unconscious. Then four or five other boats came up and we, with the remaining passengers, were taken on a British ship. With us there were seven wounded—five men and two women. One man died on the way to England. Five dead were left on the hulk, but apparently no Americans among them. We arrived in England at 4.30 a. m., and the wounded were transferred to a nearby hospital ship.

The first officer (at least a commissioned officer) of the rescuing British ship told us that the captain of the *Sussex* reported to the captain of the British ship that he saw clearly the wake of a torpedo. He ported his helm hard and in a few seconds longer would have escaped it. No life belts were given to the passengers, and we found them with great difficulty after the explosion had taken place. In our opinion the explosion took place about 50 feet from the bow and apparently on the starboard side.

We solemnly swear that the above statement is true to the best of our knowledge and belief.

EDWARD H. HUXLEY.
FRANCIS E. DRAKE.

Subscribed and sworn to before me, this 25th day of March, 1916.

EUGENE C. SHOECRAFT,
Third Secretary of Embassy.

[Seal of the American Embassy.]

Affidavit of Edward Marshall.

AMERICAN EMBASSY,
London, March 26, 1916.

There is no doubt in my mind but that the vessel was torpedoed. I, myself, did not see the approach of the weapon, but I heard one of the higher officers of the *Sussex* say to a British naval passenger that he had seen it, and a quartermaster who was on the bridge with the captain

stated to a friend of mine who was in a small boat with him after the disaster that he, the captain, and others on the bridge saw the wake of the approaching torpedo and sheered the ship so that it might, if possible, escape.

There seems to be absolutely no support for the floating-mine theory and every possible support for the torpedo theory. Not long before the shock came we had passed floating wreckage, indicating the destruction of a vessel. From the deck of the *Sussex* this flotsam seemed to be baled tobacco, but that is a mere guess. Concerning the identity of the shattered ship which bore it I have been unable to learn anything. I was sitting in the smoking room when the shock came. The effect was extraordinary. The smoking room is small, containing four or five tables. I, at one of them, was very definitely jarred and was aware instantly that we had been blown up, but was not seriously shaken. At a table just aft of where I sat, not more than 6 or 7 feet distant, a heavy man was thrown high into the air, coming down head first upon the chair on which he had been sitting with force sufficient to break the chair.

Of course I hurried to the outer deck. The sun was shining brightly, the sea was very far from rough, being animated by nothing more than a gentle swell, but a strange, uncanny sound was in the air, vibrant, chilling. It was a moan from the ship's company. I heard no screams.

There was no mad panic. Some women became hysterical and some men lost their heads, but the reported scramble for the boats is not true. There was amazingly little excitement, but there was something quite as dreadful, which was the lack of training on the part of the crew. Capt. Mouffet was on the bridge.

The vessel was probably struck just aft of the bow. It may be that the shot was directed against her very cut-water. At any rate, between a third and a quarter of the ship was cut off as with a mighty knife. I reached the outer deck in time to see this severed portion of the vessel before it slowly, unsensationally sank.

Still there were no screams, but the curious moan, as of many people in slow pain, grew louder. Women kept their heads amazingly. Mrs. Dorothy W. Phillips Hilton, daughter-in-law of the late Judge Hilton, of New York, came up to me.

"I can't find my daughter," she exclaimed. I had seen her walking with a beautiful young girl of 22. I went with her about the deck to look for her, but we could not find her anywhere.

This search was made difficult by a curious cause. The explosion had

raised a mighty mass of water from the sea, which had blown backward on the ship. It completely missed the forward portion of the remaining deck space, leaving it quite dry, but it rushed along the space aft of amidships with the volume and force of a heavy sea, harming no one, I believe. But it made the deck intensely slippery, and as I am lame it complicated the search for the young American girl. I did not see Mrs. Hilton again for a long time. Then she came to me and told me that her daughter was not on the ship and that some one said she had gone off in one of the boats. It seemed wise, for the distracted mother's sake, to confirm this rumor, and I did so, although I had no ground for it.

The crowds about the boats had become dense immediately after the stunned pause which followed the explosion. From the very first I had not the slightest thought of trying to get into a small boat, and so of these proceedings I was only an interested and presently a horrified spectator. The captain on the bridge had been fully subject to the great shock of the explosion. Probably the concussion somewhat stunned him for a few moments, for the ship literally had been sheared away just forward of the bridge, so near to it, in fact, that the foremast had gone down. He was not panic-stricken, but like a man whose brain is dulled.

Subordinate officers were very competent, but immediately were confronted by an utterly unseamanlike crew wholly inefficient in such an emergency. Some of them began to work at the lines about the davits, from which the boats swung, but they worked incompetently. Passengers helped them incompetently. Still there was no panic.

But presently one of the boats touched water. Then there was a rush for it. This seemed to be infectious. Some men slid down the ropes into the tiny craft, some women jumped for it, some threw children into it. Presently it was overloaded and without much difficulty was cast off and floated free of the vessel. This was the first boat I saw to thus float free. It then seemed certain that the vessel presently would sink and I called to some one in the boat to get her to a distance, thinking that otherwise the suction of the drowning vessel might take her down with us. But no one heard me. The crowd within the boat was not behaving well. She was beginning to careen. I could not remove my fascinated gaze from her. Presently she capsized. I have no idea how many of her company were drowned. For a time they floated, struggling very briefly, for I am told the water was intensely cold. Then they began to perish, one by one, a few being picked up by other boats which had been lowered and drawn near. In the meantime gratings had been thrown

overboard in large numbers. I imagine that they had been designed for such emergency, but they were too narrow. More than once I saw one slowly turn as a struggler seized its edge. Usually the struggler did not again appear. Once or twice I saw a swimmer reach and climb upon one, only to be overset ere long by someone else. I saw only one person borne up efficiently by one. She lay back downwards, supine, arms and feet extended. I think she was unconscious as she floated astern. On one of these gratings a strange thing occurred. A young woman deliberately disrobed and then plunged into the sea.

On board, ere this, a curiously unexcited chaos had begun to reign. At the other boats there was a succession of heartbreaking scenes. Some women dropped their children into waiting arms and then jumped after them. Some men endeavored to slide down the ropes—a ticklish business, for the boat was rolling, and as often as not they presently hung between the small boat and ship. This meant that they must be crushed.

When I turned from these scenes to look again at the boat which had capsized, a man was seated on her upturned keel, holding a swimming woman's hand. Round about were floating bodies. If they were not dead, the chill had dulled them to unconsciousness.

Two of the boats got clear away, but came back to the *Sussex*, when their inmates saw that she still floated and that the small boats probably would not float long. One passed beyond my vision.

Meanwhile the wireless had been rerigged, some of its stays having been carried away by the explosion. It crackled out its S. O. S. The sky grew overcast. A sail appeared and rockets were sent up. The sail made not the slightest sign that those who governed it had seen us. Later I learned that it was that of a windjammer which had been helpless, as the breeze blew, to come to our assistance, but had picked up one of the boats.

A curious thing was visible alongside. It was as if hundreds of yards of white cloth had been unrolled and floated at a yard beneath the surface. I do not know what it was.

Two of the boats, seeing that the *Sussex* did not sink, returned and their occupants were taken aboard ship. There were many injured to look after. One woman had been torn about the abdomen incredibly and died on deck. A man had been driven from one of the dining tables through the forward end of the ship—which, it must be remembered, was quite open—and hung head downward, his legs entangled in immense

quantities of wire which had been brought from somewhere by the explosion.

Disagreeable affairs developed. Some of the crew appeared with champagne bottles in their pockets, and staggering. This did not become as serious as might have been the case, for the ship's officers took the liquor from them and cast it into the sea.

I went among the wounded. Their injuries were freakish. Both of one man's legs were twisted till his feet pointed backward. Another's face had been blown in by the explosion and presented an extraordinary spectacle. He was unconscious.

In the meantime, now and then, we went to the ship's rail but could not see that she was settling. The sea was rising. The windjammer was slowly disappearing. We were assured that help was coming, but ceased to take much stock in the reports, the general impression being that the wireless was not working properly. This was strengthened when, even before darkness fell, rockets were sent up from the bridge.

I went below, having done all that I could, and having fallen once or twice upon the slippery decks. There, in which I think must be the steerage of the ship, we huddled, shivering, some women sobbing, one or two, definitely crazed, shrieking constantly, a few children crying, by now weakly, and moans coming from the slightly injured.

Presently we saw a light. Then, after hours of what mounted to dull misery, a trawler drew alongside. The transfer of the wounded was attempted but was quite impossible, for the vessels bobbed about amazingly. Many passengers were pulled aboard the little rescue ship, however, and none was injured so far as I could learn. It was as obviously impossible for me to get aboard the trawler as it had been for me to attempt to get into a small boat, although some new-made friends came to me asking me to make the effort. Presently, having taken all that she could take, and nearly all the women and children, she drew off and the dull waiting recommenced.

It was ended by the appearance of a British destroyer. It pulled up alongside and made fast, although the rising seas now and then crashed it against the wreck's side viciously. I was among the last to be passed from one ship to the other.

The voyage in to Dover was a quick one. I made it in the quarters of the crew, as I could not make the climb down to the commander's cabin. There in the crew's quarters half a dozen wounded were in bunks and one doctor and some very able amateurs did what could be done for

them. One man died as I looked on, and the legs of another hung by mere shreds.

At Dover the wireless already had assembled an ambulance train of motor cars. Our landing was made by crossing a British hospital ship, at whose side, within the harbor, the destroyer moored, and on this hospital ship the living wounded were disposed in part, a few being taken to a hospital ashore. The ambulance train conveyed the balance of us to hotels. I, myself, was rather helpless by a fall or two upon the slippery decks of the disabled ship while I had been endeavoring to help the wounded.

Among the Americans injured moved from the hospital ship to the Western Heights Hospital, at Dover, in the morning was George H. Crocker, 22 years old, of Fitchburg, Mass. He suffered a concussion of the brain at the time of the explosion and remained unconscious up to the time I took the train for London. He was on his way to join the American ambulance at Paris. His cousin, Charles Thomas Crocker, also of Fitchburg, was looking after him.

These young men were standing near the bow of the *Sussex* when the explosion occurred. M. J. E. Baldwin, his wife, Elizabeth S., and their daughter Helen were standing near them. They were on their way to their home in Paris.

Tinglewoods Culbertson and Daniel Sargent, respectively 29 and 25, also going to join the American ambulance, were among those taken from the *Sussex* by the French trawler. One American woman, Mrs. Edna S. Harde, helped everyone despite her own worry.

Among those injured was Wilder Cradee Pendleton, of Wisconsin, a medical student. One of his legs was broken. He was going to France on a vacation from the medical school at Oxford.

The dead were left on board the *Sussex*. Of these I saw the purser, who was found covered with the wire which I have mentioned as among the ship's light cargo. Four other men, to me unknown, lay on the upper deck. The young girl with the splendid ruby still lay where she died. Another woman lay dead in the women's room, and there was the dead man swinging head down from the wreckage at the bow.

These were all the dead I saw aboard ship; but there were those swirling, ghastly figures in the sea, turning, twisting, apparently never sinking to invisible depths.

It would be difficult to describe the indignation which was felt by the American survivors. Down among the mail bags on the lower deck we

held a little indignation meeting while we waited for the rescue ships which few of us believed would reach us ere the rising seas should finish the torpedo's work. During the course of this extraordinary gathering I endeavored to take evidence as to whether we had been torpedoed or had struck a mine. All the testimony favored the torpedo theory. One of the seamen who was in the boat with Alfred Legresley, of the island of Jersey, which after drifting for some hours returned to the *Sussex*, told him that he could positively swear that he actually saw the torpedo as it came, saying that it was plainly visible 50 yards or so in front of its white fan-shaped wake. A woman passenger, whose name I did not get because she fainted, had made a similar statement to me before we left the *Sussex*. Further evidence that it was a torpedo and not a mine came to me after we had boarded the destroyer, where an officer informed me that a bit of the torpedo had been picked up on the *Sussex* not far from the grim place in which eight or nine sailors asleep in the forecastle had been blown to bits with the compartment in which they rested.

It is impossible to speak with too much enthusiasm of the kindness of the officers and men of the destroyer. Their tenderness in handling the wounded, their gentle care for the few women who were taken aboard that vessel, the reverence with which they treated the two who died as we sped in toward Dover, their skill and willingness to risk their own lives and limbs during the transfer of the passengers from the disabled vessel to the little iron ship alongside all were notable. Nor must it be forgotten that her young commander risked his craft to help us. The sea was rising rapidly as he lay alongside and every now and then the vessels came together with a crash that shook them both and made great indentations in the destroyer's outer skin.

One little episode I must not forget. Perhaps it may be pleasing to those of devout religious faith. While things were at their worst aboard the *Sussex*, and I fear I have not indicated quite how bad they were for a long period, a small group of Italians gathered and remained quite calm, droning, as they waited for what we all knew very probably might be the end, an Ave Maria. Over and over, they intoned the chant, and so great was its restraining influence that these Latins, usually held to be the most excitable of peoples, were among the calmest of the troubled passengers.

Perhaps I may be forgiven if, at the end of this imperfect and incomplete account of this grimly fascinating experience, I mention some of the reflections which irresistibly affected the little knot of us who sat

on the mail bags below deck as the slow hours passed while we were waiting for assistance or the end. More women and children than men were gathered there, some of them injured, all of them shivering, many of them beginning to cough rackingly as the effect of wettings or exposure. Probably there were a score there who had been immersed in open sea and rescued in one way or another and very likely some of these will pay as high a price for this brief, tragic journey as those who were killed outright have already paid. I presume that save for the few ship's officers, who may or may not have been armed, as ship's officers may well be at all times, there was not an armed man on the vessel. Surely she was not a fighting ship. She did not even have a signal gun aboard.

As far as I could learn she carried no munitions nor anything which could be of comfort to the fighting men of France and England save the mails, which were to take them news from home.

Yet she had been torpedoed with all the ruthlessness and malevolence which would be excusable only if directed against an actual fighting ship. We, who talked this matter over, had seen women, had seen little children, sinking to their death in the cold sea or mangled to their death on board by the explosion. Not one of us bore any more relationship to the great war than mine, which, to this time, has been merely that of a recorder of opinion.

The maddest enemy mind could not attach to the poor little old ship *Sussex* any military importance whatsoever; any normally humane mind would have stayed a tempted hand at thought of the entirely innocent character of her burden.

Yet, without an instant's warning, the torpedo had been launched at us. That it had failed to send the last soul on the vessel to eternity had been the merest freak of inconceivable good fortune. The little meeting was not pleasantly disposed toward German methods. Had a German been on board and had the nature of his blood been learned by chance last night, as we swung, slowly settling toward what certainly was probable destruction, I am sure he would have fared ill.

The above statement is true to the best of my knowledge and belief.

EDWARD MARSHALL.

Subscribed and sworn to before me this twenty-sixth day of March, 1916.

EUGENE C. SHOECRAFT,
Third Secretary of Embassy.

[Seal of the American Embassy.]

Deposition of André Paul Danger, second engineer of steamship "Sussex."

[Translation.]

FRENCH REPUBLIC,
MINISTRY OF FOREIGN AFFAIRS,
Boulogne, March 26, 1916.

DEPOSITION OF THE OFFICER MECHANIC DANGER, ANDRÉ PAUL, OFFICER MECHANIC OF MERCHANT SERVICE, REGISTERED AT DIEPPE UNDER NO. 75.

This day, the 26th of March, 1916, before us, Demoliere, Administrator of the Maritime Inscription at Boulogne-on-sea, appeared the Officer Mechanic, André Paul Danger, No. 75, who embarked on board the *Sussex* in the capacity of second engineer, who made to us the following declarations, after having sworn to tell the entire truth:

"I was on duty in the engine room for the crossing between Folkestone and Dieppe. I was at my post beside the control of the two engines. At 2.50, about, I received a telegraphic order to stop the starboard engine. We were at that moment making 175 revolutions, which correspond to a speed of 15/17 knots.

"As soon as I received the order to stop the starboard engine I stopped it immediately; the port engine continued to turn at 175 revolutions."

Q. How much time elapsed between the moment when you stopped your starboard engine and the moment of the explosion?—A. " Three to four seconds elapsed between the moment that I stopped the starboard engine and the moment of the explosion.

"Almost instantly after signaling 'stop starboard' the telegraph signaled 'starboard full speed astern.' In execution of this order directly after stopping the starboard engine I reversed to give full speed astern.

"The operation of reversing can be done very rapidly in about one second and a half, because of the change speed 'Brown' with combined pistons (steam and hydraulic pistons). The vacuum in the condenser was normal, viz, 65 vacuum, about. With this vacuum the engine reversed immediately.

"The starboard engine had scarcely begun to go astern when the

explosion took place; the engine had scarcely time to make a few revolutions astern, which were probably without influence on the ship, because the screw could not have time to produce its effect upon the currents of water which the port engine was churning up in the opposite direction. After the shock took place the captain ordered me to stop both engines at once."

After reading this deposition and after we had asked him whether he had anything to add, the officer mechanic, Danger, signed it with us.

Done at Boulogne on the 26th of March, 1916.

DANGER,
The Officer Mechanic.
DEMOLIERE,
The Administrator of the Maritime Inscription.

Certified to be an exact copy.

For the President of the Council, Minister for Foreign Affairs, and by order the Minister Plenipotentiary Sub-Director.

JEAN GOUT.

[Foreign office seal.]

Affidavit of Mark Baldwin.[1]

[Translation.]

DECLARATION OF MR. MARK BALDWIN, AMERICAN CITIZEN, SHIPWRECKED ON THE STEAMER "SUSSEX."

FRENCH REPUBLIC,
MINISTRY OF FOREIGN AFFAIRS.

In the year 1916, the 26th of March, at 17 o'clock, we, Georges Jean Valleins, special commissary of the railway police, living at Boulogne sur mer, judiciary police officer, assistant of the procuror of the Republic, accompanied by Mr. Sivadon, special assistant commissary, proceeded to the Hotel Sussex, at Wimereux, where, in the presence of Mr. Certeux, sous prefet of Boulogne sur mer, we heard Mr. Mark Baldwin, corresponding member of the Institut de France, aged 55 years, domiciled in Baltimore, 118 West Franklin Street, American citi-

[1] Copy received from the French Ministry of Foreign Affairs by Ambassador Sharp and transmitted with his dispatch No. 3123.

zen in residence at Paris, 11 bis Bd Delassert, who, after having taken an oath to tell the truth, nothing but the truth, and the whole truth, made to us the following declaration:

Accompanied by Mrs. and Miss Baldwin we embarked, on the 24th of March, on board the *Sussex*, at Folkestone, our destination being Paris.

We left after noticing that there were on board other Americans, amongst whom two young men traveling for the American Ambulance in Paris.

We were seated in the stern beside the heavy baggages, and after taking our lunch on board my wife and I were seated there. My daughter was with the two young Americans of whom I have spoken close to the captain's cabin.

Suddenly there was a shock, followed by an explosion. The shock and the explosion were distinctly separate.

A great quantity of débris and a wave of water were thrown upon the ship. There was great confusion.

Before the explosion my wife and I, who were in the stern, had seen nothing. We looked for the life belts in the saloon, and I helped my wife to get into a small boat with other women. Then I ran to search for my daughter. I looked all over the front part of the steamer, but she was not there. The place where she had been standing with the two young men had disappeared. Not finding my daughter, I returned to my wife at the place where I had left her. She was on the deck, the sailors having made all the people who were in the boat get out.

I looked for another boat in which my wife and several other ladies had been taken by three or four gentlemen. When the boat was full, I went back to look for my daughter. I did not find her and I supposed that she left in another boat. I jumped into the boat where my wife was, sliding down the ropes, when to my surprise there I found my daughter stretched out, almost dead.

We remained in this boat until sunset; five other boats, I believe, were like ours, overcrowded. After a discussion we decided to remain near the *Sussex;* a single boat drew away until we lost sight of it.

I saw many people in the water. We were in the second boat, from which the passengers clambered aboard the *Sussex* with the authorization of the captain. The sea was a little rougher, and the operation was difficult, especially for my daughter, who was still unconscious. We were on the lower deck, where we remained with many others until after eleven

o'clock, when it was announced that a ship was close to us with facilities for disembarking. Women were taken first; my wife and my daughter were the last, because it was difficult to transport my daughter. After the women, a number of men were embarked on the *Marie-Thérèse* until she was full. I was of the number.

I noticed that a good many remained behind on the *Sussex*. A bed was found for my daughter, and the crew of the boat treated us admirably. They made coffee for us, and after three-fourths of an hour we arrived at Boulogne. We were the last to leave the ship, because an ambulance had been ordered for my daughter, and all three of us were transported to the General Hospital No. 14, at Wimereux.

I do not know what became of the two young men with whom my daughter was talking. They were Mr. Crocker, of Boston, a Harvard student, coming over as military driver in the American Ambulance at Paris, and Mr. Penfield, a student at the University of Oxford.

My daughter on her arrival at the hospital was in a condition of physical prostration and mental confusion, doubtless provoked by a blow on the skull. Her right side is for the moment paralyzed. Up to the present her condition remained about the same, but this afternoon she showed better symptoms.

Affidavit of Wilder G. Penfield.

WESTERN HEIGHTS MILITARY HOSPITAL,
Dover, March 27, 1916.

I was leaning on the forward rail, as far in the bow as possible, talking to Miss Baldwin and George Crocker. A few minutes before the explosion, Mr. Baldwin was also talking to us. Whether he had left us or not, I do not know. We were looking at some sea gulls, forward and a little to the starboard. The explosion sounded like a huge rending of boards and occurred about 3 o'clock. I felt no unusual movement of the ship before the explosion. My only sensation was one of falling amid flying boards. I was conscious the entire time. I lifted a few boards off of me and crawled to the deck.

I then looked for Miss Baldwin and George Crocker. I found the latter immediately in front of the closed cabin; I dragged him to the deck. He was badly entangled in small wire coils. These latter were

everywhere in the wreckage—small steel wire coils—about 6 inches in diameter. Under Crocker was a young woman whom I thought was Miss Baldwin. I carried her to the deck, turned her over—and believed her not to be Miss Baldwin. The woman was then dead or died soon afterwards. She had on a green coat edged with brown or dark fur and she had dark hair.

I saw a man, almost over the water, hanging by his feet. I said to myself, "There's Mr. Baldwin." The man had iron gray hair, and as it was impossible to reach him, I suppose he slid into the water afterwards.

I noticed no change of motion of the boat just previous to the explosion. I did not see a mine or torpedo, although I was looking out on the water at the time, to a spot about 200 yards distant. A torpedo, however, might have come directly from the left or right without my seeing it.

The above statement is true to the best of my knowledge and belief.

WILDER G. PENFIELD.

Sworn to and attested before me, this 27th day of March, 1916.

EUGENE C. SHOECRAFT,
Third Secretary of Embassy.

[Seal of the American Embassy.]

Report of Auguste Mouffet, captain of steamship "Sussex."

[Translation.]

THE CAPTAIN OF STEAMSHIP "SUSSEX," AUGUSTE MOUFFET, TO MR. GUERIN, COMMANDER OF THE FLEET AT DIEPPE.

I, the undersigned, Auguste Mouffet, captain of the steamer *Sussex*, of the Compagnie des Chemins der Fer de l'Etat, declare that I left Folkestone for Dieppe, with 325 passengers, 53 men in crew, mail for India and the baggage of the passengers, at 1.25 p. m. the 24th of March, 1916. Course, true S. 36° W. passing 1 mile off Dungeness, at 2 p. m. I am running east, west of that light. Headed true S. 3° W. about 2.50

p. m. I am 13 miles off Dungeness, longitude—, latitude—, I espy the wake of a torpedo at about 150 meters on the port side. I immediately order helm 30° to starboard in order to bring her about quicker and stop starboard engine which was done at once. In spite of all my efforts I was unable to avoid the torpedo which struck the bow of the *Sussex* at the foremast, producing a formidable explosion tearing off the entire bow as far as the first water tight bulkhead.

After having found that the boat was in a critical position and in order to save human life, I gave the order to lower the lifeboats and rafts. This was done quietly and coolly by the crew. I also gave orders for the wireless operator to send signal according to instructions No. 87 of July 10, 1915. In spite of all my precautions the lifeboats were overloaded by the passengers, who, seized with a momentary panic, jumped into the boats and caused two of them to capsize; a part of their contents was thrown into the sea and disappeared.

It is to be regretted that in these terrible circumstances I have to mourn the death of several members of the crew and of passengers, the number of whom I can not state even approximately, all the less as a part of the passengers and crew were picked up by the mobilized trawler *Marie Thérèse* at 10.40 p. m., and the other part, including the wounded, were taken on board an English torpedo boat at midnight. Toward 1 a. m. of the 25th an English destroyer, seeing that it was impossible to make headway with my own engines reversed, took me in tow and towed me for about 45 minutes; the hawser having parted, the destroyer then went in search of a tug-boat, which towed me for about 1 hour and 30 minutes, when a second one came to help the first, and they towed me into Boulogne-sur-mer with the tide, about 2 p. m. of the 25th. The ship is moored to the wharf in the smaller harbor; the bodies of the passengers killed by the explosion, baggage, and mail were removed.

I have to bring to the notice of the higher authority the devotion, initiative, and coolness of my crew, and above all of Messrs. Rondeau, second mate; Delabarre, second engineer; Danger, second engineer; Gosselin, third engineer; Lesne, boatswain; who never ceased to prevent a panic and to encourage the passengers.

Such is my report, that I swear to be sincere and true in all its contents, reserving to myself the right to supplement it if need be.

Read and signed by the leading members of the crew.

The captain:

A. Mouffet.

Deposition of Gertrude Lehman Barnes.

AMERICAN EMBASSY,
Paris, March 27, 1916.

The witness, after being duly sworn, testified as follows:

1. Q. What is your name?—A. My name is Gertrude Lehman Barnes.

2. Q. Where and when were you born?—A. I was born at Buffalo, N. Y., on February 9, 1873.

3. Q. Where is your present home in the United States?—A. My home is at 128 West Eleventh Street, New York City.

4. Q. What was the citizenship of your father?—A. American, native.

5. Q. What is your occupation?—A. Buyer.

6. Q. Were you a passenger on board the steamship *Sussex* leaving Folkestone for Dieppe on the 24th instant?—A. I was.

7. Q. Did the *Sussex* show a flag?—A. Not that I know of for I went direct into a cabin.

8. Q. Where were you standing when the explosion occurred?—A. I was in a private cabin on the upper deck and was asleep at the time.

9. Q. Did you see any trace of a submarine?—A. I saw no trace of a submarine.

10. Q. Did you see the track of a torpedo?—A. I did not see any track of a torpedo, being in my cabin at the time of the explosion.

11. Q. What in your opinion caused the explosion?—A. I do not know; I can only speak from hearsay.

12. Q. Was the *Sussex* armed?—A. I did not see any guns.

13. Q. Were the passengers warned to put on life belts?—A. No; they were not.

14. Q. In what condition were the life belts?—A. They were in a very poor condition indeed; the straps were rotten. As soon as I tried to tie the strap, it broke off.

15. Q. Were the lifeboats lowered by the crew?—A. No; not that I saw; the only ones I saw lowered were handled by the passengers.

16. Q. Did they seem adequate to accommodate all passengers?—A. No; there were only six lifeboats, and every one seemed leaky.

17. Q. Was the vessel equipped with wireless?—A. Yes; it was.

18. Q. Do you know of your personal knowledge of any Americans having been killed by the explosion or drowned as a result of it—if so, who?—A. No; I do not know of any.

19. Q. At what hour did the explosion take place and how far was the

vessel from the shore at the time?—A. The explosion took place, I believe, at about 3 o'clock. I do not know how far we were from shore, but as soon as it got a little dark we saw the light of a lighthouse.

20. Q. Were there any other craft near the *Sussex* at the time she was struck?—A. No; not that I saw.

21. Q. Did you see any dead bodies lying on the deck, and if so, how many?—A. I saw people I supposed were dead, I did not stop to examine them, but I saw two men and one woman who seemed to be dead, though I can not be sure.

22. Q. Did you notice any persons drowning?—A. Yes; but I walked away to the other side of the ship, as the sight was so dreadful, and not to see them go down. I saw two lifeboats capsize and all the people struggling in the water; one woman and a little boy seemed on the point of going down just as I turned away.

23. Q. You remained on the steamer?—A. Yes; until we were taken off the *Sussex* by the *Marie-Thérèse* and taken to Boulogne.

GERTRUDE LEHMAN BARNES.

Subscribed and sworn to before me,

ROBT. W. BLISS,
The Secretary of the Embassy
of the United States of America,
at Paris, this 27th day of March, 1916.

[Seal of the American Embassy.]

Deposition of Samuel Flagg Bemis.

AMERICAN EMBASSY,
Paris, March 27, 1916.

The witness, after being duly sworn, testified as follows:

1. Q. What is your name?—A. My name is Samuel Flagg Bemis.

2. Q. Where and when were you born?—A. At Worcester, Mass., October 20, 1891.

3. Q. Where is your present home in the United States?—A. At Medford, Mass.

4. Q. What was the citizenship of your father?—A. American, native.

5. Q. What is your occupation?—A. I am a student, as travelling fellow of Harvard University.

6. Q. Were you a passenger on board the steamship *Sussex* leaving Folkestone for Dieppe on the 24th instant?—A. Yes.

7. Q. Did the *Sussex* show a flag?—A. It was flying a French flag at Folkestone; at the time the explosion occurred it was flying no flag; I distinctly noticed this because I had observed a few minutes before that the flag had been taken down. I speak of the flag at the stern of the ship.

8. Q. Where were you standing when the explosion occurred?—A. I was standing on the second-class deck, near the stern.

9. Q. Did you see any trace of a submarine?—A. I saw no submarine.

10. Q. Did you see the track of a torpedo?—A. I distinctly saw a white streak in the water, which was unmistakable; I observed this a few seconds before the explosion occurred, because my attention was called to it by the exclamation of the man at my side, who shouted, "What's that * * * ." The streak was on the left-hand side of the ship; as far as I can estimate, it extended out from the ship for about 200 yards, but before my eyes were able to follow fully the length of the trail, and at the same time realizing the significance of what that trail meant, my attention was drawn away from it, and the explosion occurred almost immediately afterwards. The trail, however, was unmistakable.

11. Q. What, in your opinion, caused the explosion?—A. The torpedo. In saying this I say so as a man who knows nothing at all about marine matters. It seems to me that the trail was unmistakable. I observed it a few seconds, just how many I can not say, but a very few seconds before the explosion occurred, and the fact that my attention was called to the trail, that I realized that it was probably a torpedo from the appearance of the wake in the water, is what convinces me that it was a torpedo.

12. Q. Did you see a periscope?—A. No.

13. Q. Was the *Sussex* armed?—A. I can not answer as to that; I did not see any evidence of her being armed.

14. Q. Were the passengers warned to put on life belts?—A. Not to my knowledge.

15. Q. In what condition were the life belts?—A. In very poor condition, from what I saw at the time I went below for a life belt in one of the lockers in the second-class cabin. I found none in the lockers, but I found three in a corner, and these three were in a very poor condition. I attempted to attach one to myself, but the tapes fell apart and the material of which the tapes were made was rotten. However, I took parts

of one on deck, and there, with a pocket knife, I succeeded in getting a piece of light rope from a pile on deck, and with this attached the imperfect life belt about my chest.

16. Q. Were the lifeboats lowered by the crew?—A. I saw none lowered by the crew, but I can not answer as to whether they were lowered by the crew or not; I suppose that the one which I got into eventually and in which I was a few seconds was lowered by the crew since previously another young American and I had tried to lower it, but did not succeed, as we could not manage the ropes.

17. Q. Did they seem adequate to accommodate all passengers?—A. By no means.

18. Q. Was the vessel equipped with wireless?—A. I saw a mast with wires which appeared to me to be similar to those I had observed on other vessels; I take it that this was a wireless.

19. Q. At what hour did the explosion take place and how far was the vessel from shore at the time?—A. I can not answer precisely as to the hour, because I did not look at my watch, but as nearly as I can estimate the time which passed since we left Folkestone it was about 3 o'clock; I can not say just how far the vessel was from shore, but there was no land in sight.

20. Q. Do you know of your personal knowledge of any Americans having been killed by the explosion or drowned as a result of it; if so, who?—A. No; not to my personal knowledge. When I got on the boat I knew none of the Americans on board, since I was traveling absolutely alone. I was told by Americans whom I met after the accident that several Americans had been killed.

21. Q. Were there any other craft near the *Sussex* at the time she was struck?—A. I did not see any myself and I believe that there was no vessel in sight.

22. Q. Did you see any dead bodies lying on the deck; and if so, how many?—A. After I returned to the *Sussex*, after having been picked up from a life raft, I saw several bodies lying on the deck, but it seemed that nobody was allowed to go up to the front part of the deck, and I was asked by somebody not to go there, and hence refrained, but I saw several bodies lying on the deck; one moved his leg a little.

23. Q. Did you notice any persons drowning?—A. I saw one man immediately after the explosion, who apparently had been blown into the sea, though I can not say for sure whether he was blown in the sea; he had grasped the log line of the boat and was hanging on there, his

face covered with blood. Immediately after I looked again, perhaps one or two minutes after; he was no more to be seen. While I was on the life raft I saw several persons about me struggling in the water; I did not count them exactly; I was not able to help anyone; they were all too far away from me, and I was busy caring for myself. There were quite a dozen around me; not within reach, however. After I had been in the water for an hour or so most of these people seemed to have disappeared. There were a few, five or six, who had floated out near me on life rafts. Also, before I left the ship, I observed on the starboard side a man struggling in the water, grasping a rope which hung over the steamer.

24. Q. Did you see the effect that was produced by the explosion on the steamer itself? And if so, describe what you saw.—A. The first effect I saw was a huge mass, evidently the front of the ship, which swept by the stern a few seconds after the explosion; the next I saw of the effect of the explosion was from a raft on the sea as I gradually drifted away from the boat, from which I could clearly see that the whole bow of the ship had disappeared. The final sight I had of the effect of the explosion was not so clear; this was when I was leaving on the French vessel, which took us off; we went by very quickly the bow of the ship and I could see in the faint light of the ship's lanterns the same thing, viz: That the bow was entirely torn off.

25. Q. Did you see whether there were any plates of the vessel that were bent outward or inward in the forepart when the explosion occurred?—A. I can not answer that.

In saying that I am not familiar with marine matters I mean to say that I have no more knowledge than the average layman, but I do not wish to cast the inference that because of the lack of greater knowledge in this matter I might be mistaken as to the torpedo. The track in the water, to my mind, was unmistakable. I do not see how it could have been made by anything else than a torpedo fired from some distance.

SAMUEL F. BEMIS.

Subscribed and sworn to before me,

ROBT. W. BLISS,
Secretary of the Embassy of the United States of America, at Paris, this 27th day of March, 1916.

[Seal of the American Embassy.]

Deposition of Tingle Woods Culbertson.

AMERICAN EMBASSY,
Paris, March 27, 1916.

The witness, after being duly sworn, testified as follows:

1. Q. What is your name?—A. Tingle Woods Culbertson.

2. Q. Where and when were you born?—A. At Wheeling, W. Va., on January 15, 1887.

3. Q. Where is your present home in the United States?—A. At Sewickley, Pa.

4. Q. What was the citizenship of your father?—A. American, native.

5. Q. What is your occupation?—A. Steel business.

6. Q. Were you a passenger on board the steamship *Sussex* leaving Folkestone for Dieppe on the 25th instant?—A. Yes.

7. Q. Did the *Sussex* show a flag?—A. Yes; I noticed that it was flying a French flag when we set sail.

8. Q. Where were you standing when the explosion occurred?—A. I was standing at the railing that separates the first from the second class, near the middle of the boat, on the side opposite the one on which the boat was struck.

9. Q. Did you see any trace of a submarine?—A. None whatever.

10. Q. Did you see the track of a torpedo?—A. No.

11. Q. Were you in a position where you could have seen the track of the torpedo?—A. No, because the torpedo struck on the forward port side, and I was looking toward the stern, standing on the starboard side.

12. Q. What in your opinion caused the explosion?—A. I do not know.

13. Q. Was the *Sussex* armed?—A. There were no arms visible from the deck, and I did not examine the boat thoroughly.

14. Q. Were the passengers warned to put on life belts?—A. So far as I know, there was no warning either before or after the explosion.

15. Q. Were the life belts in a position where they could be easily obtained?—A. There was one row hanging around the exterior rail of the boat, and there were others in chests which the sailors took out and threw on deck.

16. Q. In what condition were the life belts?—A. In very good condition.

17. Q. Did you not notice anything wrong in the belt which you put on?—A. No, I did not. I also noticed that the crew and all the passengers wore belts, which were in very good condition, while on board.

18. Q. Were the lifeboats lowered by the crew?—A. One I am sure was not manned by the crew, and how it was lowered I can not say. The other boat, which was lowered on the other side, may have been manned by the crew, but I do not know how it was lowered. These two boats of which I have just spoken were large. I observed two other smaller boats, one of which capsized almost immediately on reaching the water, the other of which gradually filled with water. As far as I know, the occupants of these two smaller boats were mostly saved. The occupants of the two larger boats were rowed about for some time, and later returned on board the *Sussex*.

19. Q. Did the lifeboats seem adequate to accommodate all passengers?—A. No; because when all the boats had been put out there were between 100 and 150 people left on board the *Sussex*.

20. Q. Was the vessel equipped with wireless?—A. Yes, before the explosion, but afterwards the forward mast which bore the antennæ was blown completely overboard, thus damaging the wireless to such an extent as to limit the transmission of messages to a very small radius, although it was still possible to receive messages from a much greater distance.

21. Q. Do you know of your personal knowledge of any Americans having been killed by the explosion or drowned as a result of it? If so, who?—A. Yes; I saw a girl lying dead on deck who was pointed out to me as being Miss Baldwin.

22. Q. At what hour did the explosion take place and how far was the vessel from shore at the time?—A. Shortly after 3 p. m., roughly speaking, we were about mid-channel when the explosion took place We were so informed by the crew of the submarine destroyer which came to our rescue later on. Shortly after dark I saw the light from a lighthouse.

23. Q. Were there any other craft near the *Sussex* at the time she was struck?—A. No; not at the time she was struck, but about an hour afterwards we saw a sailboat very far off to starboard; it was hard to tell whether it even noticed us. Toward dark a small sailboat seen from the rear seemed to be coming our way, but turned and sailed off in the opposite direction.

24. Q. Did you see any dead bodies lying on the deck; and if so, how many?—A. The one I have mentioned, which was pointed out to me as being Miss Baldwin.

25. Q. Did you notice any persons drowning?—A. No; I saw some in the water, but later saw them rescued.

26. Q. You remained on the steamer?—A. Yes; I remained on the steamer until the time when I was taken off with many others by the *Marie-Thérèse* to Boulogne.

T. W. Culbertson.

Subscribed and sworn to before me,

Henry R. Carey,
Third Secretary of the Embassy
of the United States of America, at Paris,
this 27th day of March, 1916.

[Seal of the American Embassy.]

Deposition of Calliope A. Fennell.

American Embassy,
Paris, March 27, 1916.

The witness, after being duly sworn, testified as follows:

1. Q. What is your name?—A. Mrs. Calliope A. Fennell.

2. Q. Where is your residence?—A. Majestic Hotel, New York.

3. Q. What is your nationality?—A. American by marriage.

4. Q. Where and when were you born?—A. Ithaca, Greece, 15th May, 1875.

5. Q. What is your occupation?—A. ——.

6. Q. Were you a passenger on board the steamship *Sussex* leaving Folkestone for Dieppe on the 25th instant?—A. Yes, I was.

7. Q. Did the *Sussex* show a flag, and if so, what flag?—A. I did not notice any flag.

8. Q. Where were you standing when the explosion occurred?—A. I was sitting near the bow, in front of the smoking room, my back turned to the bow, on the right side of the ship.

9. Q. Did you see any trace of a submarine?—A. I saw no trace of a submarine.

10. Q. Did you see the track of a torpedo?—A. I saw no track of a torpedo.

11. Q. If so, from what side of the boat did it seem to come?—A. ——

12. Q. What, in your opinion, caused the explosion?—A. I thought the explosion might be caused by a mine.

13. Q. Was the *Sussex* armed?—A. I did not notice that the *Sussex* carried any armament.

14. Q. Were the passengers warned to put on life belts?—A. They were not.

15. Q. In what condition were the life belts?—A. They were in bad condition; there were no straps on the one I had.

16. Q. Were the lifeboats lowered by the crew?—A. They were not lowered by the crew—I did not see any one of the crew or the officers at the time; one boat capsized which was full of passengers.

17. Q. Did they seem adequate to accommodate all passengers?—A. There were only 4 boats for 380 passengers.

18. Q. Was the vessel equipped with wireless?—A. I saw no wireless apparatus, but think there was one.

19. Q. Do you know of your personal knowledge of any American having been killed by the explosion or drowned as a result of it—if so, who?—A. I do not know.

20. Q. At what hour did the explosion take place and how far was the vessel from shore at the time?—A. Half past 2; we were still very near Folkestone, although we did not see the land.

21. Q. Were there any other craft near the *Sussex* at the time she was struck?—A. Nothing all around but a sailing boat which seemed to approach, then went away.

22. Q. Did you see any dead bodies lying on the deck—and if so, how many?—A. I saw three prostrate bodies on one side of the boat then, two more on the other side—these last two were covered when we returned to the boat which we had left for a few hours.

23. Q. Did you notice any persons drowning?—A. I saw several people drowning—one woman who was picked up in my boat died afterwards.

Have you any remarks to make?

Remarks: Yes, I wish to say it is extraordinary that there were not more lifeboats—that belts were not in a better condition—and that there was nobody to say what to do. We were in the boat wondering

what to do, and when we approached the ship the captain simply said to keep far from it.

One boat was sent to the nearest lighthouse to call for help.

CALLIOPE A. FENNELL.

Subscribed and sworn to before me,

ARTHUR HUGH FRAZIER,
Second Secretary of the Embassy
of the United States of America
at Paris this 27th March, 1916.

[Seal of the American Embassy.]

Deposition of Daniel Sargent.

AMERICAN EMBASSY,
Paris, March 27, 1916.

The witness, after being duly sworn, testified as follows:

1. Q. What is your name?—A. Daniel Sargent.

2. Q. Where and when were you born?—A. I was born at Wareham, Mass., August 22, 1890.

3. Q. Where is your present home in the United States?—A. Wellesley, Mass.

4. Q. What was the citizenship of your father?—A. American, native.

5. Q. What is your occupation?—A. I am a teacher.

6. Q. Were you a passenger on board the steamship *Sussex*, leaving Folkestone for Dieppe on the 24th instant?—A. I was.

7. Q. Did the *Sussex* show a flag?—A. I never noticed the flag.

8. Q. Where were you standing when the explosion occurred?—A. I was in the stern, just where the second-class passengers are railed off from the first. I was in the first-class part of the stern.

9. Q. Did you see any trace of a submarine?—A. I saw no trace of any.

10. Q. Did you see the track of a torpedo?—A. I was looking toward the stern and could not have seen it.

11. Q. What, in your opinion, caused the explosion?—A. I could not really tell.

12. Q. Was the *Sussex* armed?—A. No; it was not armed.

13. Q. Were the passengers warned to put on life belts?—A. No.

14. Q. In what condition were the life belts?—A. They seemed very old and soggy and I never knew if they could support anyone. There

were some new life belts in a chest, but most of them were hanging round the side of the ship on rails; there was no sign telling where they were. Some of the life belts were without any strap.

15. Q. Were the lifeboats lowered by the crew?—A. No.

16. Q. Did they seem adequate to accommodate all passengers?—A. No.

17. Q. Was the vessel equipped with wireless?—A. Yes; until the explosion came; it was then destroyed when the mast went down. I was told by an English newspaper man that they could receive messages but not send any out. The captain gave out that they were receiving messages.

18. Q. Do you know of your personal knowledge of any Americans having been killed by the explosion or drowned as a result of it? If so, who?—A. Only by disappearance; I did not see a dead American. Miss Baldwin I saw within a minute of the explosion; afterwards I could find no trace of her. I saw most of the wounded but did not happen to see her; she was blown up on the captain's bridge but I did not see her there.

19. Q. At what hour did the explosion take place and how far was the vessel from shore at the time?—A. I should think that the explosion took place about 5 minutes after 3. No shore was visible at the time.

20. Q. Were there any other craft near the *Sussex* at the time she was struck?—A. There were several sailing craft on the horizon.

21. Q. Did you see any dead bodies lying on the deck; and if so, how many?—A. I saw several bodies that seemed to be dead; I would not have known if they were quite dead or not.

22. Q. Did you notice any persons drowning?—A. I did not see a single person actually go down. I saw people float out and disappear and never come back, but not actually go down.

The boat seemed to have been struck on the left by something that passed through it to the right, for on that side the sheeting of the boat was entirely turned round almost like a horseshoe as though it had been forced back. The boat did not rise up in the air when it was struck.

DANIEL SARGENT.

Subscribed and sworn to before me,

ROBT. W. BLISS,
Secretary of the Embassy of the United States of America, at Paris,
this 27th day of March, 1916.

[Seal of the American Embassy.]

Deposition of Gertrude Wenzlick Warren.

AMERICAN EMBASSY,
Paris, March 27, 1916.

The witness, after being duly sworn, testified as follows:

1. Q. What is your name?—A. Gertrude Wenzlick Warren.

2. Q. Where is your residence?—A. St. Louis, Mo.

3. Q. What is your nationality?—A. American.

4. Q. Where and when were you born?—A. St. Louis, September 13, 1887.

5. Q. What is your occupation?—A. None.

6. Q. Were you a passenger on board the steamship *Sussex* leaving Folkestone for Dieppe on the 25th instant?—A. I was.

7. Q. Did the *Sussex* show a flag; and, if so, what flag?—A. I did not notice a flag.

8. Q. Where were you standing when the explosion occurred?—A. Between first and second class—aft.

9. Q. Did you see any trace of a submarine?—A. I did not see a submarine.

10. Q. Did you see the track of a torpedo?—A. Yes; I was looking out over the water, which I had seldom seen so calm and such a deep blue; I suddenly saw a white streak approaching the ship with a kind of wiggling movement; I am no judge of distances, but I am sure it was at least the length of the ship. I exclaimed to myself, "torpedo," and I am told that I said, "There it is," simultaneously with the explosion.

11. Q. If so, from what side of the boat did it seem to come?—A. From the left side.

12. Q. What, in your opinion, caused the explosion?—A. The torpedo.

13. Q. Was the *Sussex* armed?—A. I did not see any sign of guns.

14. Q. Were the passengers warned to put on life belts?—A. No; they were not.

15. Q. In what condition were the life belts?—A. In bad condition.

16. Q. Were the lifeboats lowered by the crew?—A. No; they were lowered by the passengers.

17. Q. Did they seem adequate to accommodate all passengers?—A. No; there were only 6 lifeboats.

18. Q. Was the vessel equipped with wireless?—A. Yes; it was.

19. Q. Do you know, of your personal knowledge, of any American

having been killed by the explosion or drowned as a result of it—if so, who?—A. No; I did not.

20. Q. At what hour did the explosion take place and how far was the vessel from shore at the time?—A. About 3 o'clock; I do not know how far, but no land was in sight.

21. Q. Were there any other craft near the *Sussex* at the time she was struck?—A. No.

22. Q. Did you see any bodies lying on the deck, and if so, how many?—A. I saw three people prostrate on the deck, but I can not say whether they were dead or only wounded.

23. Q. Did you notice any persons drowning?—A. I saw one person who went down.

GERTRUDE WENZLICK WARREN.

Subscribed and sworn to before me,

ARTHUR HUGH FRAZIER,
Second Secretary of the Embassy
of the United States of America, at Paris,
this 27th day of March, 1916.

[Seal of the American Embassy.]

Deposition of Edward Harold Williams-Ashman.

AMERICAN EMBASSY,
Paris, March 27, 1916.

The witness, after being duly sworn, testified as follows:

1. Q. What is your name?—A. Edward Harold Williams-Ashman.

2. Q. Where is your residence?—A. 68 rue de la Tour, Paris.

3. Q. What is your nationality?—A. I am a British subject.

4. Q. Where and when were you born?—A. In Detroit, Mich., on September 30, 1885.

5. Q. What is your occupation?—A. Clergyman.

6. Q. Were you a passenger on board the steamship *Sussex* leaving Folkestone for Dieppe on the 25th instant?—A. Yes; I was.

7. Q. Did the *Sussex* show a flag, and if so, what flag?—A. French flag.

8. Q. Where were you standing when the explosion occurred?—A. I was sitting midship on the starboard side of the ship facing the sea.

9. Q. Did you see any trace of a submarine?—A. No trace of a submarine.

10. Q. Did you see the track of a torpedo?—A. No track of a torpedo.

11. Q. If so, from what side of the boat did it seem to come?—A.

12. Q. What in your opinion caused the explosion?—A. Something seemed to strike the side on which I was sitting; my chair swung round.

13. Q. Was the *Sussex* armed?—A. I saw nothing leading me to believe it was.

14. Q. Were the passengers warned to put on life belts?—A. I was not. I do not know if other people were.

15. Q. In what condition were the life belts?—A. The first two life belts which I found were without straps; after that I discovered one in good condition, and apparently there were others in good condition still unused.

16. Q. Were the lifeboats lowered by the crew?—A. One, I know, was not; the others I do not know.

17. Q. Did they seem adequate to accommodate all passengers?—A. I can not say; there were either six or eight.

18. Q. Was the vessel equipped with wireless?—A. Yes; it was.

19. Q. Do you know of your personal knowledge of any American having been killed by the explosion or drowned as a result of it; if so, who?—A. No; I only knew of several Americans being injured.

20. Q. At what hour did the explosion take place and how far was the vessel from shore at the time?—A. About 3 o'clock; there was no land in sight.

21. Q. Were there any other craft near the *Sussex* at the time she was struck?—A. No.

22. Q. Did you see any dead bodies lying on the deck, and if so, how many?—A. Yes; I saw two dead bodies.

23. Q. Did you notice any persons drowning?—A. I saw three persons who were drowning.

E. H. Williams-Ashman.

Subscribed and sworn to before me,

Arthur Hugh Frazier,
Second Secretary of the Embassy
of the United States of America, at Paris,
this 27th day of March, 1916.

[Seal of the American Embassy.]

Affidavit of Charles T. Crocker, IIId.

LORD WARDEN HOTEL,
Dover, March 28, 1916.

I was walking in the stern of the boat when the explosion occurred. I was thrown off my feet and washed against the railing by a wave that appeared to come from overhead. There was a slight panic for awhile—the lifeboats being overcrowded, and I remember one capsizing before reaching the water. The life belts were in very poor shape. It must have been over 30 minutes before I missed my cousin, George Crocker—and it suddenly dawned on me that some must have been wounded by the explosion. I may add here that the explosion seemed terrific at the time, and even cracked the deck in the stern near where I was standing. After the explosion there was a long white sort of a ribbon which came from the bow of the ship. It was about half the length of the ship, I should say 2 feet wide and floated 2 or 3 feet under the water. It looked something like a strip of paper. There was also a great deal of small coil wire both in the water and all over the deck. After getting to the wounded the remainder of the time, that is, until 11.30, when a French tug came up, was occupied by helping the injured.

The above statement is true to the best of my knowledge and belief.

CHARLES T. CROCKER, IIID.

Mar. 28, 1916.

Sworn to and attested before me this 28th day of March, 1916.

EUGENE C. SHOECRAFT,
Third Secretary of Embassy.

[Seal of the American Embassy.]

Deposition of Lilian S. Harde.

AMERICAN EMBASSY,
Paris, March 28, 1916.

The witness, after being duly sworn, testified as follows:

1. Q. What is your name?—A. Lilian S. Harde.

2. Q. Where and when were you born?—A. At New York, September 8, 1870.

3. Q. Where is your present home?—A. Hotel Majestic, Paris.

4. Q. What was the citizenship of your father?—A. American.

5. Q. What is your occupation?—A. Assistant at the Pasteur Institute, Paris.

6. Q. Were you a passenger on board the steamship *Sussex* leaving Folkestone for Dieppe on the 25th instant?—A. Yes.

7. Q. Did the *Sussex* show a flag?—A. I did not notice, myself, but was told that she flew a French flag.

8. Q. Where were you when the explosion occurred?—A. I was dozing on deck, midships, on the port side.

9. Q. Did you see any trace of a submarine?—A. No; I saw nothing.

10. Q. Did you see the track of a torpedo?—A. No; I did not, but previous to the explosion my eyes were shut.

11. Q. What, in your opinion, caused the explosion?—A. My opinion on this subject is based entirely upon hearsay. It was stated around me that, from the way the bow of the boat was cut after the explosion, the damage could only have been done by a torpedo.

12. Q. How would you describe the noise of the explosion?—A.——.

13. Q. Was the *Sussex* armed?—A. No.

14. Q. Were the passengers warned to put on life belts?—A. No; neither before nor after the explosion.

15. Q. Were the life belts in a position where they could be easily obtained?—A. Yes.

16. Q. In what condition were they?—A. My life belt, which came from downstairs, was in good condition, but I saw a number lying on the deck which had apparently fallen to pieces as a result of the wetting they got from the shower of water on the deck after the explosion. There were, however, plenty of good ones to go around.

17. Q. Were the lifeboats lowered by the crew?—A. No; the people took them and lowered them themselves. I think a great number of the crew were killed at the bow.

18. Q.——?—A. No. I do not think there were sufficient boats, but there were a great many rafts, all of which were not used.

19. Q. Was the vessel equipped with wireless?—A. Yes; but the apparatus went down in the explosion and was only repaired two hours later.

20. Q. Do you know of your personal knowledge of any Americans having been killed by the explosion or drowned as a result of it—if so, whom?—A. No, I do not of my personal knowledge know of any American having been killed, although I heard at once that Prof. Baldwin and

his daughter were dead, as they had been sitting in the bow of the boat.

21. Q. At what hour did the explosion take place and how far was the vessel from shore at the time?—A. At 3 o'clock; or, in other words, three hours before the boat was scheduled to arrive at Dieppe. We were an hour and a half out of Folkestone by my watch. It took us one and a half hours to reach Boulogne from the moment the trawler took us aboard; at that time we had drifted far out of our original course.

22. Q. Were there any other craft near the *Sussex* at the time she was struck?—A. No.

23. Q. Did you see any dead bodies lying on the deck, and if so, how many?—A. ——.

24. Q. Did you notice any persons drowning?—A. Yes; I saw several people drowning—some who had jumped into the water and some who were in the capsized lifeboat.

25. Q. Have you anything to add?—A. I should like to add that the French officers who manned the boat did admirably.

LILLIAN S. HARDE.

Subscribed and sworn to before me,

HENRY R. CAREY,
Third Secretary of the Embassy
of the United States of America,
at Paris, this 28th day of March, 1916.

[Seal of the American Embassy.]

Deposition of Edna S. Harde.

AMERICAN EMBASSY,
Paris, March 28, 1916.

The witness, after being duly sworn, testified as follows:

1. Q. What is your name?—A. Edna S. Harde.

2. Q. Where and when were you born?—A. At New York, November 26, 1874.

3. Q. Where is your present home?—A. Hotel Majestic, Paris.

4. Q. What was the citizenship of your father?—A. American, native.

5. What is your occupation?—A. Doctor, specialist in bacteriology, working at Pasteur Institute, Paris.

6. Q. Were you a passenger on board the steamship *Sussex*, leaving Folkestone for Dieppe on the 25th instant?—A. Yes.

7. Q. Did the *Sussex* show a flag?—A. I know only from hearsay that the *Sussex* flew a French flag.

8. Q. Where were you when the explosion occurred?—A. I was asleep in a ladies' cabin.

9. Q. How long was it before you reached the deck after the explosion? —A. A minute or two.

10. Q. Did you see any trace of a submarine or the track of a torpedo? —A. No.

11. Q. What, in your opinion, caused the explosion?—A. I can not give an opinion on the subject, as I do not know.

12. Q. Was the *Sussex* armed?—A. There were no arms visible from the upper deck as far as I could see, and no arms nor munitions were loaded before the boat set sail. I watched the operations of loading very carefully from the time I got on the boat until it was finished.

13. Q. Were the passengers warned to put on life belts?—A. I personally was not warned.

14. Q. In what condition were the life belts?—A. All that I saw were in good condition.

15. Q. Were the life belts in a position where they could be easily obtained?—A. All the chairs had life belts in their backs and belts also hung around the railing of the ship. There were others under the pillows in the ladies' saloon.

16. Q. Were the lifeboats lowered by the crew?—A. I saw two lifeboats lowered, which reached the water safely. A member of the crew, whom my sister states to have been a stoker, was in charge of the lowering of the boat she was in.

17. Q. Did the lifeboats seem adequate to accommodate all passengers?—A. No; apparently not, because there were about 100 of us left on board the *Sussex;* but there were many rafts.

18. Q. Was the vessel equipped with wireless?—A. It was.

19. Q. Do you know, of your personal knowledge, of any Americans having been killed by the explosion or drowned as a result of it? If so, who?—A. I was told at the time that Mr. and Miss Baldwin, who had been seen in the front of the boat, had immediately disappeared.

20. Q. At what hour did the explosion take place and how far was the vessel from shore at the time?—A. I heard that the explosion took

place at 3 o'clock. It was said at the time that we were nearer England than France.

21. Q. Were there any other craft near the *Sussex* at the time she was struck?—A. No; except three boats on the horizon, which soon disappeared.

22. Q. What was the explosion like?—A. It was a very sharp, quick explosion, over at once, accompanied and followed by a tremendous crash as of wood and glass. On leaving the *Sussex* on the *Marie Thérèse*, I noticed that the metal plates of the *Sussex* were bent outward on what seemed to be her left side in the extreme front of the boat.

23. Q. Did you see any dead bodies lying on the deck; and if so, how many?—A. I saw one dead body of a blonde young woman, about 25 years old, on the upper deck near the bow on the right-hand side; as a physician, I am certain that she was dead.

24. Q. Did you notice any persons drowning?—A. Saw many in the water, but all apparently supported by life belts or rafts, etc. This was very shortly after the explosion. I wish to add that the French crew behaved splendidly as far as I saw.

EDNA S. HARDE.

Subscribed and sworn to before me,

HENRY R. CAREY,
Third Secretary of the Embassy
of the United States of America, at Paris,
this 28th day of March, 1916.

[Seal of the American Embassy.]

Deposition of John H. Hearley.

AMERICAN EMBASSY,
Paris, March 28, 1916.

The witness, after being duly sworn, testified as follows:

1. Q. What is your name?—A. My name is John H. Hearley.

2. Q. Where and when were you born?—A. I was born at Albany, N. Y., on September 20, 1889.

3. Q. Where is your present home in the United States?—A. Albany, N. Y.

4. Q. What was the citizenship of your father?—A. My father was a naturalized American of British origin.

5. Q. What is your occupation?—A. I am a journalist.

6. Q. Were you a passenger on board the steamship *Sussex*, leaving Folkestone for Dieppe on the 24th instant?—A. I was.

7. Q. Did the *Sussex* show a flag, and, if so, what flag?—A. I am not absolutely sure, but it seems to me if she showed a flag that it was a French one.

8. Q. Where were you standing when the explosion occurred?—A. I was standing in the rear of the vessel, well back of the ship, at the end of the first class.

9. Q. Did you see any trace of a submarine?—A. I saw no trace of a submarine.

10. Q. Did you see a periscope?—A. I saw nothing resembling a periscope.

11. Q. Did you see the track of a torpedo?—A. I did not see the track of a torpedo.

12. Q. What, in your opinion, caused the explosion?—A. I have no certitude as to the cause of the explosion; I do not know whether a mine or a torpedo occasioned it. At first I did not believe it was an explosion, it sounded to me more like a slam of a heavy door instead of an explosion which made the *Sussex* a ship without a bow. I have not the slightest idea of the cause of the explosion.

13. Q. Did you see a sheet of water thrown up by the explosion and falling on the deck of the vessel?—A. No; I saw no water thrown upon the deck of the vessel by the explosion. I was pacing the stern of the boat and the cabins blocked such a sight.

14. Q. What was the condition of the sea; was it calm, glassy, or had it some movement?—A. The sea, as I remember it, was quite calm and with little movement.

15. Q. Was the *Sussex* armed?—A. I am not certain that the *Sussex* was armed or not; I am sure that personally I saw no guns upon her.

16. Q. Were the passengers warned to put on life belts?—A. Personally I was never warned to put on a life belt.

17. Q. In what condition were the life belts?—A. Speaking of the life belts collectively, I know little or nothing about them; the one I picked up, which was the last one in sight on the deck, apparently was in good condition.

18. Q. Were the lifeboats lowered by the crew?—A. After I realized

that an explosion had occurred, I looked about for a life belt; everybody around me seemed to have picked one up immediately after the shock; I myself did not find one until I discovered one well forward in the vessel swinging on a rail. I put on this life belt and shouted to some frightened women to follow me, and made for a lifeboat swinging desertedly near the captain's cabin. Three other civilians and I launched this boat and lowered it into the sea. Previously we had taken on board a number of women from the *Sussex* and picked up three or four who were clinging to rafts in the water. Personally I saw the crew of the *Sussex* launch two other lifeboats at about this time.

19. Q. Did they seem adequate to accommodate all passengers?—A. The lifeboats on the *Sussex* not only did not seem adequate to accommodate all the passengers, but in my mind were not adequate.

20. Q. Was the vessel equipped with wireless?—A. The vessel was equipped with wireless.

21. Q. Do you know, of your personal knowledge, of any American having been killed by the explosion or drowned as a result of it; if so, who?—A. Personally I know of no American who was killed by the explosion or drowned as the result of it. At first several other American survivors and I believed Miss Elizabeth Baldwin, of Philadelphia, to have been killed; however, she has since been reported wounded.

22. Q. At what hour did the explosion take place and how far was the vessel from shore at the time?—A. The explosion was heard about 3 o'clock in the afternoon; we were about two hours out of Folkestone it seemed to me. Later I heard that the *Sussex* was about in mid-channel at the time.

23. Q. Did you see any land at the time?—A. As far as I remember, no land was in sight at the time of the explosion.

24. Q. Were there any other craft near the *Sussex* at the time she was struck?—A. No other moving craft was near the *Sussex* at the time she was struck, as far as I could see. However, a short while before we had passed a mass of floating freight which appeared to be relics of a sunken steamer. A dirigible which had trailed our steamer for some time after we left Folkestone also had been out of sight for a matter of 10 or 15 minutes, it seemed to me, when the explosion occurred.

25. Q. Did you see any dead bodies lying on the deck; and if so, how many?—A. I saw several bodies lying on the deck; three of these I believed to be corpses; one, however, I now understand was that of Miss Baldwin, who is alive. Personally, I think five or six who were ren-

dered unconscious by the shock of the explosion or falling débris were at first believed to be dead.

26. Q. Did you notice any persons drowning?—A. Our lifeboat picked up three or four half-drowned women. There were others, men and women, who were clinging to rafts at some distance away from our boat; I am not certain whether these were picked up or not, but it seems probable that some of them, at least, were drowned, among these I think, was Granados and his wife who were fellow passengers of mine on the *Rotterdam*.

I wish to add that an interview reported with me in the *Matin*, of March 28, in which I am stated to have said the Germans were assassins and pirates, and that the *Sussex* was torpedoed, is a misquotation almost from start to finish. I made absolutely no mention of the word "German" or the words "torpedo" or "submarine" or of the words "murderers" or "assassins" in my statement to the representative of the *Matin*. As proof of the foregoing, Mr. Philip Simms, Paris manager of the United Press, who heard the interview, and Mr. Garnier of United Press agency, will vouch.

JOHN H. HEARLEY.

Subscribed and sworn to before me,

ROBT. W. BLISS,
Secretary of the Embassy of the United States of America, at Paris, this 28th day of March, 1916.

[Seal of the American Embassy.]

Deposition of Dorothy W. Hilton.

AMERICAN EMBASSY,
Paris, March 28, 1916.

The witness, after being duly sworn, testified as follows:

1. Q. What is your name?—A. Mrs. Edward B. Hilton.
2. Q. Where is your residence?—A. 79 Avenue Malakoff, Paris.
3. Q. What is your nationality?—A. American.
4. Q. Where and when were you born?—A. Washington, D. C., June 2, 1868.

5. Q. What is your occupation?—A. Rentière.

6. Q. Were you a passenger on board the steamship *Sussex* leaving Folkestone for Dieppe on the 24th instant?—A. I was.

7. Q. Did the *Sussex* show a flag; and, if so, what flag?—A. I did not notice the flag.

8. Q. Where were you standing when the explosion occurred?—A. I happened to be seated under the bridge on the port side.

9. Q. Did you see any trace of a submarine?—A. No; I did not.

10. Q. Did you see the track of a torpedo?—A. No; I did not.

11. Q. If so, from what side of the boat did it seem to come?—A. ——

12. Q. What in your opinion caused the explosion?—A. I do not know. I simply felt a shock—everything above fell and the explosion was followed by a great wave of water and I thought I would be drowned.

13. Q. Was the *Sussex* armed?—A. I saw no sign of guns.

14. Q. Were the passengers warned to put on life belts?—A. No.

15. Q. In what condition were the life belts?—A. In a terrible condition, they were no good—the strings were broken, the canvas torn.

16. Q. Were the lifeboats lowered by the crew?—A. No, I think not there were four lifeboats, two on each side.

17. Q. Did they seem adequate to accommodate all passengers?—A. They were not in sufficient number to rescue all the passengers.

18. Q. Was the vessel equipped with wireless?—A. Yes, it was.

19. Q. Do you know of your personal knowledge of any American having been killed by the explosion or drowned as a result of it—If so, who?—A. No, I do not know of my personal knowledge.

20. Q. At what hour did the explosion take place and how far was the vessel from shore at the time?—A. It was 2.45; I heard people say we were in mid-channel.

21. Q. Were there any other craft near the *Sussex* at the time she was struck?—A. Nothing to be seen.

22. Q. Did you see any dead bodies lying on the deck; and if so, how many?—A. No.

23. Q. Did you notice any persons drowning?—A. I saw people in the water with life belts on, two clinging to rafts, but no one drowning.

24. Q. Are there any remarks you would like to make?—A. Yes, I think it is a shame that a ship carrying so many passengers should not also carry the means to save their lives.

I thought all the channel boats were escorted, but a little after leaving

Folkestone I asked from an official on the boat whether it was escorted and he answered "Pas du tout."

About one-half an hour after the explosion had occurred a sailing boat seemed to approach and then went away.

DOROTHY W. HILTON.

Subscribed and sworn to before me,

ARTHUR HUGH FRAZIER,
Second Secretary of the Embassy of the United States of America, at Paris, this 28th day of March, 1916.

[Seal of the American Embassy.]

Deposition of Edna Frances Hilton.

AMERICAN EMBASSY,
Paris, March 28, 1916.

The witness, after being duly sworn, testified as follows:

1. Q. What is your name?—A. Edna Frances Hilton.

2. Q. Where is your residence?—A. 79, Avenue Malakoff, Paris.

3. Q. What is your nationality?—A. American.

4. Q. Where and when were you born?—A. In Paris, on the 31st of December, 1893.

5. Q. What is your occupation?—A. ——.

6. Q. Were you a passenger on board the steamship *Sussex*, leaving Folkestone for Dieppe on the 24th instant?—A. Yes; I was.

7. Q. Did the *Sussex* show a flag and, if so, what flag?—A. I did not see any flag at all.

8. Q. Where were you standing when the explosion occurred?—A. I was reading in the dining room in the front. Most of the people who were in that room were killed by the explosion; those who remained were terribly injured. I was uninjured, though.

9. Q. Did you see any trace of a submarine?—A. No.

10. Q. Did you see the track of a torpedo?—A. No.

11. Q. If so, from what side of the boat did it seem to come?—A. Yes, I know it came on the left or port side because all the windows on this

side were smashed in. After the explosion occurred the ship had a slight list to the starboard.

12. Q. What in your opinion caused the explosion?—A. I had no idea; but I noticed something like a dark purple ink covered the face and hands of the people who were in the dining room.

13. Q. Was the *Sussex* armed?—A. No, I do not think so; if there had been guns on board it would not have failed to attract the attention.

14. Q. Were the passengers warned to put on life belts?—A. No, they were not.

15. Q. In what condition were the life belts?—A. In an awful condition; I picked up three which were without straps or strings; the canvas was rotten—there were three big holes in mine.

16. Q. Were the lifeboats lowered by the crew?—A. When the steamer left the port they were half lowered. The crew did not lower them after the accident; most of the crew were blown up by the explosion, I think.

17. Q. Did they seem adequate to accommodate all passengers?—A. Certainly not; there were only four small lifeboats which were quite insufficient.

18. Q. Was the vessel equipped with wireless?—A. Yes; but it was smashed by the explosion.

19. Q. Do you know of your personal knowledge of any American having been killed by the explosion or drowned as a result of it—if so, who?—A. No, I do not.

20. Q. At what hour did the explosion take place and how far was the vessel from shore at the time?—A. It was about 3 o'clock; we were in mid-channel; the lighthouse was visible all the time both in daytime and at night.

21. Q. Were there any other craft near the *Sussex* at the time she was struck?—A. There were no vessels in sight.

22. Q. Did you see any dead bodies lying on the deck, and if so, how many?—A. I did not. I saw some people terribly wounded.

23. Q. Did you notice any persons drowning?—A. I saw one man float by. Three women were picked out of water—one died in the boat.

24. Q. Are there any more remarks you would like to make?—A. There was a sailing boat coming and then going. There was nothing done to save the lives of the passengers. The lifeboats were in awful condition—there were three holes in the one I was in—and there were only four of them. I saw a number of British steamers within the harbor

of Folkestone, which I was told were being held on account of the presence of submarines in the channel. It therefore surprises me that the *Sussex* should have been sent out without escort.

EDNA F. HILTON.

Subscribed and sworn to before me,

ARTHUR HUGH FRAZIER,
Second Secretary of the Embassy
of the United States of America,
at Paris, this 28th day of March, 1916.

[Seal of the American Embassy.]

Deposition of Norman Meikle.

AMERICAN EMBASSY,
Paris, March 28, 1916.

The witness, after being duly sworn, testified as follows:

1. Q. What is your name?—A. Norman Meikle.

2. Q. Where is your residence?—A. Holyhead, North Wales, second engineer, steamship *Northern*, Lapalisse.

3. Q. What is your nationality?—A. British subject.

4. Q. Where and when were you born?—A. New Zealand, on May 2, 1885.

5. Q. What is your occupation?—A. Marine engineer.

6. Q. Were you a passenger on board the *Sussex* leaving Folkestone for Dieppe on the 24th instant?—A. Yes; I was.

7. Q. Did the *Sussex* show a flag, and, if so, what flag?—A. The French flag was flying until the ship had cleared the land.

8. Q. Where were you standing when the explosion occurred?—A. Between the first and second class barrier.

9. Q. Did you see the trace of a submarine?—A. No; I did not.

10. Q. Did you see the track of a torpedo?—A. No.

12. Q. What in your opinion caused the explosion?—A. I thought it was a mine.

Q. Why did you think the ship struck a mine?—A. From the position of the wreckage and the fact that it seemed to strike the ship at the foot of the stem.

Q. Was the *Sussex* armed?—A. No; to my knowledge it was not armed.

Q. Was the vessel equipped with wireless?—A. Yes; she was equipped with wireless; it came down with the explosion.

Remark: If *Sussex* had been hit by torpedo it would have been possible for the submarine to have finished her with second torpedo.

NORMAN MEIKLE.

Subscribed and sworn to before me,

ARTHUR HUGH FRAZIER,
Second Secretary of the Embassy
of the United States of America,
at Paris, this 28th day of March, 1916.

[Seal of the American Embassy.]

Affidavit of Henry S. Beer.

AMERICAN CONSULATE,
St. Gall, Switzerland, March 29, 1916.

Henry S. Beer, being first duly sworn, deposes and says:

I am an American citizen. Together with my wife, I was a passenger on the steamer *Sussex* when that steamer was torpedoed absolutely without warning of any kind, in midchannel between Folkestone and Boulogne on the afternoon of March 24, 1916. I know of my own knowledge that the *Sussex* was torpedoed, for I saw the torpedo before it struck and while it was still a hundred yards or more distant from the steamer. It was just before 3 o'clock in the afternoon. I was on deck with an English friend, Mr. J. Faulkes, of Debenham & Co., London. We were standing at the railing on the left side of the steamer about 10 feet back from the ladder leading up to the captain's bridge. Mrs. Beer sat in a steamer chair just behind us. It was a clear, sunny day and, as I turned my eyes seaward, I distinctly saw the torpedo approach the steamer, a hundred yards or more away. Its course in the water was clearly marked and I could not have been mistaken. I exclaimed, "a torpedo" and the next instant it struck the steamer some distance in front of where we stood, throwing up a mass of water that drenched us, and literally tearing away the whole fore part of the steamer. The ladder leading to the captain's bridge was torn away and fell on the deck. The torpedo struck the steamer at an acute angle and not directly

head-on. Mrs. Beer and I found places in one of the boats, together with about 30 others, and rowed away from the steamer, which we expected to sink immediately. We rowed about for two hours, picking up half a dozen passengers who were clinging to bits of wreckage, and then seeing that the steamer was still afloat we rowed back to it, but were not allowed to go aboard. Again we rowed about two hours more and, night having come on, we again rowed back to the steamer and this time were taken aboard. About 11 o'clock at night a French trawler came alongside and took us off and brought us into Boulogne.

HENRY S. BEER.

Witnesses:
FRANK DIMINKE.
EMIL MEILE.

Subscribed and sworn to before me this 29th day of March, 1916.

GEORGE NICOLAS IFFT,
American Consul.

[Seal of the American Consulate.]

Deposition of Edna Hale.

AMERICAN EMBASSY,
Paris, March 29, 1916.

The witness, after being duly sworn, testified as follows:

1. Q. What is your name?—A. My name is Edna Hale.

2. Q. Where is your residence?—A. I am now living in London, 17 Clarendon Street, Pimlico, S. W.

3. Q. What is your nationality?—A. I am an American.

4. Q. Where and when were you born?—A. I was born in New York City, on March 18, 1870.

5. Q. What was the nationality of your father?—A. He was British.

6. Q. What is your occupation?—A. I am an artist.

7. Q. Were you a passenger on board the steamship *Sussex* leaving Folkestone for Dieppe on the 24th instant?—A. I was.

8. Q. Did the *Sussex* show a flag; and if so, what flag?—A. I did not notice.

9. Q. What was the state of the weather?—A. It was a beautiful sunshiny day, perfectly calm.

10. Q. Where were you standing when the explosion occurred?—A. I was standing just aft of the bridge on the port side.

11. Q. Did you see any trace of a submarine?—A. Not any at all.

12. Q. Did you see any track of a torpedo?—A. No, I did not; I was not taking any notice.

13. Q. What in your opinion caused the explosion?—A. I had an impression when I was thrown down that it was a mine.

14. Q. What caused the impression that the vessel had struck a mine rather than it was struck by a torpedo?—A. I can not tell of course how a mine or a torpedo would strike a vessel, but I had a kind of psychic impression that it was a mine, increased by the fact that the bow was lifted up.

15. Q. Was the *Sussex* armed?—A. No; not in any way.

16. Q. Were the passengers warned to put on life belts?—A. No, and I think that it was a great mistake; I think every one should have a life preserver on before starting. I fortunately had looked where they were beforehand, and when I picked myself up, which I did very quickly, I immediately took one up.

17. Q. In what condition were the life belts?—A. Mine was splendid and so was the one hanging next to mine.

18. Q. Were the lifeboats lowered by the crew?—A. Partly by the crew and partly by the passengers; I know, because I got quite calm and was watching it.

19. Q. Did they seem adequate to accommodate all passengers?—A. No; nothing like it.

20. Q. Was the vessel equipped with wireless?—A. Yes; it was damaged by the explosion, but afterwards repaired.

21. Q. Do you know of your personal knowledge of any American having been killed by the explosion or drowned as a result of it?—A. No; not one.

22. Q. At what hour did the explosion take place and how far was the vessel from shore at the time?—A. I believe it was about 4 o'clock, but can not tell exactly, as I did not look. I should think we must have been in midchannel, south of Boulogne.

23. Q. Were there any other craft near the *Sussex* at the time she was struck?—A. No; I did not see any.

24. Q. Did you see any dead bodies lying on the deck; and if so, how

many?—A. I saw several bodies on the deck; I believe one, at least, must have been dead.

25. Q. Did you notice any persons drowning?—A.. Yes, I did; three or four; of course I could not tell for sure, but they seemed to be drowning. I also saw one or two children.

EDNA HALE.

Subscribed and sworn to before me,

ROBT. W. BLISS,
Secretary of the Embassy of the
United States of America,
at Paris, this 29th day of March, 1916.

[Seal of the American Embassy.]

Affidavit of Irima Ryckeboer.

AMERICAN CONSULATE,
Calais, France, March 31, 1916.

Irima Ryckeboer, being duly sworn, upon her oath says that she was one of the passengers on board the steamship *Sussex* on the 24th day of March, 1916, and was one of the victims of the explosion which cut off about twelve metres of the forward portion of said boat *Sussex;* that at the time of the explosion she was occupying a seat in the forward part to the left in the dining room of the first-class passengers; that the explosion not only gave her a severe shock from which she is still suffering but also cast upon her a piece of iron which severed one of the tendons of her fore finger on her left hand which necessitated a surgical operation; that she did not see the wake of the torpedo in the water as was seen by others on board, but that a sailor of the *Sussex* who bandaged her hand for the first time after her injuries aboard told her that the *Sussex* had been torpedoed by a submarine because he saw the wake of a torpedo in the water about one hundred yards away just before the explosion took place and that he, the sailor, who was on the bridge with the captain, yelled out to the captain that a torpedo was coming through the water; that the sailor described the wake of the torpedo as looking like the water when agitated by a great fish swimming just beneath the sur-

face; that the captain, who also saw the wake of the torpedo gave immediately a command to the engineer to maneuver the engine so as to dodge the torpedo.

Affiant further swears that the sailor above mentioned made the foregoing statements attributed to him by the affiant while dressing her wounded hand on board the *Sussex* after the explosion and long before she debarked from the ship that came to the rescue at Boulogne-sur-mer.

Affiant further says that from what the captain, the sailor, and others saw on board the *Sussex* that every one believed that the *Sussex* had been torpedoed by a submarine.

Affiant further says that the explosion took place about three o'clock in the afternoon on the day aforesaid and that she took refuge in a lifeboat with a large number of other people, among whom there was an American and his wife; that while they were in the lifeboat they remarked a long dark object on the surface of the water like that of a submarine; that she saw it afterwards disappear in the water by plunging; that not only affiant remarked this fact, but also other persons who were seated in the lifeboat with her; that at the time they saw this object disappear in the water it was still broad daylight.

Affiant further swears that at the time of the explosion the weather was fine and the sea calm; that she had walked over the decks of the boat and she did not discover any guns or arms of any kind on board; that in her judgment from 60 to 70 per cent of the passengers on board were women and children.

Affiant further says that she is now in Paris and expects in a few days to leave for Lisbon, Portugal, to embark on board a Holland ship for Rio de Janeiro, Brazil; that her address in Paris is care of Mme. Zendowan, 14 Rue Colonel Moll.

Affiant further says that her profession is that of a first fitter as a dressmaker; that she is en route to Rio de Janeiro, Brazil, where she intends to establish a business; that she is twenty years of age and was born at Boulogne-sur-mer, France.

IRIMA RYCKEBOER.

Subscribed and sworn before me on this 31st day of March, 1916.

J. B. MILNER,
American Consul.

[Seal of the American Consulate.]

Report of Rear Admiral Grasset, of the French Navy.[1]

[Translation]

Paris, March 31, 1916.

REAR ADMIRAL A. GRASSET, ASSISTANT CHIEF OF GENERAL STAFF, TO THE VICE ADMIRAL, CHIEF OF GENERAL STAFF.

ADMIRAL: In conformity with your orders, I left for Boulogne, where I began an investigation relative to the *Sussex*.

On the 24th of March the *Sussex*, of the Compagnie des Chemins de Fer de l'Etat, making the regular service between England and France, left Folkestone at 13.25 for Dieppe. This ship carried about 325 [2] passengers of all nationalities, among whom a great number of women and children, together with the Indian mail; the ship was not armed. The crew comprised 53 men.

From the departure the speed was regulated at 16 knots; after passing a mile from Dungeness, the captain put the ship on the course S. 3° E. The weather was fair; the sea almost calm. Most of the passengers were on deck. Suddenly, before anything could attract attention, the captain, who was on the bridge, perceived 150 meters away on the port side forward the track of a torpedo. It was then 14.50; the clocks on board in stopping registered the exact time of the catastrophe. The second officer and the boatswain, who were on the bridge, likewise saw the torpedo quite clearly. With a good deal of calmness and decision the captain gave the order to put the helm to the right and to stop the starboard engine in order to pivot to the right and avoid the torpedo. These two orders were executed immediately; the depositions of the engineers on duty are proof of this. The evolution began to take place when, about 8 seconds [3] after the torpedo was seen, a formidable explosion was produced, lifting up an enormous geyser of water; the ship was cut in two as far as the bridge. The forward part disappeared entirely; the after part of the ship, thanks to the strength of the water-tight compartments, kept afloat.

[1] Transmitted with Ambassador Sharp's dispatch No. 3123.

[2] This approximate number is given by the captain. According to the company, there were 383 passengers. The man who had charge of controlling the tickets was severely wounded and transported to Dover; he is not in a condition to give information.

[3] According to the distance at which the torpedo was seen and the time elapsed until the moment of the explosion, the speed of the torpedo must have been 36 knots, which is the normal speed for these engines.

On the deck a number of passengers on board perceived the torpedo at the moment of its arrival; one of them even said to his neighbor to look at the "large fish coming toward the vessel." All the persons who were forward disappeared with the part of the ship which sank, amongst whom the passengers who were on the deck forward and in the first class saloon, the men of the crew who were in the forecastle, the forward look-out, and the masthead lookout, likewise disappeared.

The captain, who was knocked down by the geyser of water produced by the explosion, ordered the crew to go to the life-saving stations. The firemen and the mechanics mounted to their posts after having stopped the port engine and having closed the doors of the furnaces. At the same time the wireless operator endeavored to send a signal of distress without succeeding, the antennæ having fallen with the mizzen mast. The crew went to the designated stations in order to put out the lifeboats and rafts,[4] but the confusion on the deck rendered any circulation very difficult.

This terrible explosion produced a panic amongst the passengers which, fortunately, was short; a mother was seen to throw her child into the sea and then to precipitate herself after it; many passengers likewise threw themselves into the sea; others were restrained by the men of the crew. A number of passengers precipitated themselves into the life-boats, overfilling them. It was necessary to make some of them get out of the whaleboats, but when these boats were brought near, two of them were again invaded at the moment they passed on a level with the deck and they upset by reason of overcrowding when reaching the sea.[5] The two other whaleboats and the two cutters remained floating, filled with passengers; in each boat were two men of the crew.

The engineers ascertained that the water-tight doors of the compartments were solidly closed and opened the safety valves of the boilers to be ready for all emergencies. The wounded were transported to the cabins; the medicine chest, which was forward, having disappeared in the explosion, bandages were made with napkins, and an unknown passenger, probably an English doctor, gave the necessary care with great devotion; among the wounded a man had his two legs cut off, another

[4] There were 6 lifeboats which could contain 184 persons. There were 22 rafts which could contain 264 persons. Moreover, 816 life belts. From the depositions these life belts were in the orlop deck; a number of them were in bad condition.

[5] The boatswain, 1 seaman, and 3 passengers were able to climb on the keel of an upset whaleboat. These persons were thereafter picked up.

had his thigh severed; several being severely wounded were in a state of coma.

The vessel remained floating, with no list, the after part being higher than the bow by 30 centimeters. The captain and the crew reassured the passengers who had remained on board by showing them that the ship would not sink. About 5 o'clock the breeze freshening, the sea rising, the captain recalled the lifeboats and made the passengers disembark and convinced them that they would be in greater safety on board the *Sussex*. The women and children were conducted to the second-class saloon, aft, where they were warmed with blankets and with hot drinks; the men remained on deck.

The wireless operator occupied himself with repairing the antennæ and made it fast between the mainmast and the davit; the work was not terminated until 16.30; it was only then that he could give news of the catastrophe.

The engineers having ascertained that the engines were able to turn over, the captain called together the second officer, the boatswain, two officers of the English Navy, who were passengers, and proposed to them to reverse the engines and thus make for the English coast at slow speed. On the advice of the English officers he gave up his plan. At 20 o'clock he decided to send a whaleboat to notify the lightship *Colbart*, which was in view and which he supposed to be connected to the land by telegraph; nine volunteers embarked in the whaleboat.

Meanwhile, by an unfortunate combination of circumstances, help was late in arriving. The position notified by the wireless message was erroneous by about 15 miles; moreover, during the time that elapsed between the moment of the explosion and that when the distress signal was sent, the ship drifted. As soon as the news arrived at Boulogne, at 16.30, the patrol boats received orders to go to the help of the ship in danger. They went to the indicated spot, but found nothing, and then started to search in the neighborhood. It was only at 22.40 that the *Marie-Thérèse*, of which the captain conducted the search with method and initiative, came near the *Sussex*. The breeze was then strong from southwest and the sea heavy. The debarkation by lifeboats would have been dangerous. The captain of the *Marie-Thérèse* decided to come along the *Sussex*. The transfer of the passengers took place in the greatest calmness; the women and children were passed through a port hole of the *Sussex*, and men let themselves down by ropes. In spite of

the condition of the sea no accident took place, and, at 23.45, the *Marie-Thérèse* made for Boulogne with 192 passengers.

During this operation a number of English and French ships had gathered together; an English destroyer took the place of the *Marie-Thérèse* and embarked the rest of the passengers. The wounded, extended in hammocks, were placed on the companionway, which the captain of the *Sussex* had had sawed in two. This trestle raised by a davit allowed the wounded to be carried without causing them too great pain. The English destroyer transported these passengers, numbering 49, to England.

After disembarking the passengers an English destroyer took the *Sussex* in tow by the stern and made for Boulogne, but three-fourths of an hour later the tow-rope broke. Soon after some tugboats arrived from Boulogne and towed the *Sussex* to Boulogne, where she arrived at 14 o'clock.

Much débris coming from the torpedo was found aboard the *Sussex*. Several fragments were given to the American delegates who came to Boulogne; the others will be addressed to the department by maritime authority.

The submarine which torpedoed the *Sussex* could not be ignorant that she was attacking the mail boat, affecting the regular service between France and England. Not only the silhouette of such boats is known to all sailors, but the route of the *Sussex* and the time of her passage indicated her service. It is therefore a premeditated attack against an unarmed merchant vessel executed without the least warning.

One more fact brings into relief the premeditation and the relentlessness of the submarine. As it has been said before, a whaleboat was sent at 20 o'clock to the lightship *Colbart* to announce the catastrophe; this whaleboat arrived at the lightship at 23.45. Its crew was received by an English destroyer at 3 o'clock in the morning. During the transfer of the crew a torpedo was launched at the destroyer and passed several meters to the stern. This fact was confirmed by the British Admiralty. Now, according to the distance made by the whaleboat with oars, the lightship was at 6 or 7 miles at the maximum from the *Sussex*. From this it appears that the submarine remained in the neighborhood of the *Sussex* to torpedo any of the ships which might come to help her victim.

I will add in terminating that before leaving Boulogne I visited the room where the coffins of the victims were placed, reposing under green plants, under the guard of an armed detachment.

Photographs representing the *Sussex* in her actual condition will be sent you by the next mail.

A. GRASSET,
Rear Admiral, Assistant Chief of General Staff.

Report of Naval Attachés Sayles and Smith and Military Observer Logan to Ambassador Sharp.

AMERICAN EMBASSY,
Paris, France, April 1, 1916.

SIR: We have the honor to submit the following additional report in connection with the *Sussex* affair:

All fragments of metal which we personally picked up on board the steamship *Sussex* were sealed and tagged so as to prevent any confusion arising in the future. The fragments consist of 15 pieces, numbered from 1 to 15, inclusive.

There were four possible explanations of the explosion that occurred in the steamship *Sussex*, viz: (1) Internal explosion occasioned by the boilers of the ship; (2) internal explosion occasioned by some sort of material contained in the ship's cargo; (3) contact with a mine; (4) contact with a torpedo.

1. An actual and careful examination of the ship and its boilers by Maj. Logan and Lieut. Smith shows conclusively that the boilers of the ship are in serviceable condition to-day. The two bulkheads separating the boiler room from the destroyed portion of the ship are intact, and it was the most forward of these which held the water coming in through the open portion of the ship. As a matter of fact, the ship could have been backed into port had it not been for the fear that the backward pull of the water on this bulkhead would have been dangerous. It is reported that the advisability of this procedure was discussed by the captain and some of the passengers, but was given up. The electric-light plant of the ship functioned all the time. For the foregoing reasons this cause of the incident may be dismissed.

2. The ship was primarily a passenger and mail carrying boat, and on this account had only two small cargo holds—one aft of amidships and one in the portion of the ship cut off by the explosion. The afterhold is said

to have contained some Indian mail and the baggage of the passengers. This cargo hold is of course uninjured. The forward hold is reported officially to have contained at the time of the accident about 3 tons of cargo, consisting of aeroplane wire, a number of rolls of cloth, and a few motorcycles, together with some second-class mail matter (newspapers, journals, etc.). So far as known and officially reported, no explosive material of any kind was being transported on this ship. Maj. Logan and Lieut. Smith, who inspected the *Sussex*, report, and the photographs taken of the ship's injuries, particularly on the port side of the ship, demonstrated clearly that the injury to the ship was not occasioned by an internal explosion. The port side of the ship's bottom remaining intact, which is immediately behind the cargo hold, is bent inward to such an extent as to preclude any supposition of the effect of the explosion having been caused by any other than the contact and penetration of the ship by an explosive weapon striking the outside of the ship's hull.

3. The injury to the steamship *Sussex* is officially reported to have occurred at 2.50 p. m., March 24, 1916, and the ship's position at that time is reported to have been latitude 50° 42′ north and longitude 1° 20′ west of Paris. The ship is reported to have left Folkestone with destination Dieppe at 1.35 p. m., course 36° (true) west, passing 1 mile east of Dungeness. At 2 p. m. the ship is reported to have been abeam of the last light heading south 3° west (true). At 2.50 p. m. (time of the accident) the ship is reported to have been in the latitude and longitude above given and about 13 miles off Dungeness. This position agrees with the reputed speed of the ship, viz, 16 knots per hour. (In other words, the ship was therefore outside of any territorial waters.)

At mean low water at this position there is a depth of 31 meters. The official time of the incident was 1 hour and 13 minutes after high water. The height of the tide at this time was about 7.60 meters. The depth of the water at the time of the incident was therefore 38.60 meters. The maximum draft of the ship at the time of the incident is reported to have been 3.20 meters.

From the foregoing facts the assumption may be drawn that the *Sussex* did not come into contact with an anchored mine.

German mines.—At the French Ministry of Marine we were shown the plans of a late type of German mine. We carefully examined these plans with a view to determining whether or not any of these fragments we had found on the *Sussex* formed any part of such mine. We examined with particular attention not only the interior and exterior portion of the

mine proper but also particularly the anchoring gear and other accessories.

We deducted from this examination that neither of the two screw bolts in our possession formed any part of such a mine. (See later.) Of the remaining 13 fragments we are also agreed that 7 fragments do not form part of a mine. The remaining 6 pieces we are unable to determine definitely whether or not they are fragments of a mine or torpedo or very possibly of some portion of the ship's cargo.

The foregoing deductions from these plans were confirmed by an examination of somewhat similar plans of a German mine at Boulogne by Maj. Logan and Lieut. Smith on March 27, 1916; by an examination of certain pieces of a German mine at Rochefort by Lieut. Commander Sayles on March 25, 1916, and by an examination of a German mine at Toulon on March 31, 1916, by Lieut. Commander Sayles, Maj. Logan, and Lieut. Smith.

4. With the permission of the French Government we proceeded to Toulon, where we were permitted to see a captured German torpedo and to have it disassembled in our presence. The two screw bolts in our possession found on the *Sussex* by Lieut. Smith were stamped on the head as follows, viz, (*a*) on one surface "K" and on another surface "56"; (*b*) on one surface "K" and on another surface "58." These bolts are shaped in the same general way for use on all torpedoes of all countries. They are the bolts used for attaching the war head of the torpedo to the air chamber and also for attaching the afterbody to the air chamber. The German torpedo we saw at Toulon was No. 1804, in white paint. Its length was 5 m. 066 by 450 mm. It had stamped on it the additional letters and figures "J. P. 357." We were given in addition complete plans of this torpedo. The torpedo that we saw was said to have been built about 15 years ago and was picked up by the French on the beach near Boulogne April, 1915, after it had been discharged by a German submarine at a cargo ship. With the exception of the casing of the torpedo head the entire torpedo, including engine cylinders and fittings, is made out of a bronze composition. The head of this torpedo was attached to the air chamber by 10 screw bolts and 10 screws. This made a total of 20 holes in the circumference of the forward end of the air chamber, each being numbered consecutively from 1 to 20. The screw bolts were set in the even-numbered holes, whereas the flat-head screws were set in the odd-numbered holes. Each screw bolt was numbered with the corresponding numbered hole it occupied, and in addition

had the letter "K" on it. These screw bolts are identical in size, shape, and marking with those we had picked up on the *Sussex*. We have two of these now in our possession which we removed from the torpedo at Toulon. The letter "K" on the fitting of the head of a torpedo is said to be characteristic of German torpedoes and to represent the German word "kofp," or head, and this with its number shows at a glance the position of the hole where it is to be placed. While at Toulon we were also permitted to examine similar screw bolts used on British and French torpedoes. These had no letters or numbers and we were informed that they were not so numbered or lettered in either of the services. They were also of a slightly different size. We have one of each of these in our possession. The fact that the numbered pieces we have in our possession are numbered "56 K" and "58 K," respectively, whereas the highest numbered "K" piece we saw on the torpedo at Toulon was numbered "20 K," leads us to believe that the torpedo from which the screw bolts found on the *Sussex* came was of a slightly different model than that on the one at Toulon. The fact of the pieces being numbered, being of the same size, and being lettered "K" is, however, very important; and is, to say the least, a very convincing circumstance.

Of the seven fragments that we also agreed upon as forming no part of the mine, four of these we have agreed upon as having formed part of one of the engine cylinders used on a German torpedo. The engine in the German torpedo we saw at Toulon was a three-cylinder reciprocating engine. The four pieces we agreed upon have been carefully compared with not only the drawings, but also with the actual engine parts, and are identical in shape and composition. The torpedo which may have hit the *Sussex* may have been a four-cylinder type, in accordance with some of the later models, and likewise some of its outside surfaces may not necessarily be of a bronze composition. We have no fragments that we can positively identify as belonging to the exterior surface of the torpedo. A four-cylinder engine would not necessarily vary much in design in the engine cylinders. The remaining three fragments of the group which we are agreed upon as not forming part of a mine we agree are parts of the same engine from which the preceding four parts have come. On account of the small size and shape of these pieces and from the effects of the explosion, we were unable to definitely place their position on either the plans or the engine we saw. We consider these particular fragments, while not constituting as positive and convincing evidence as the screw bolts, to be nevertheless of the greatest possible

importance in the consideration of the merits of the case and a very convincing contributory circumstance. We have the honor to be, sir,

Your obedient servants,

W. R. Sayles,
Lieut. Comdr. U. S. Navy.
James A. Logan,
Major, Q. M. C., U. S. Army.
B. L. Smith,
1st Lieut., U. S. M. C.

Report of Naval Attachés Sayles and Smith to Ambassador W. H. Page.

American Embassy,
London, April 5, 1916.

Sir: In accordance with orders received from the Secretary of State we have the honor to report as follows concerning the attack made on the steamship *Sussex*.

From the evidence obtained by us the following facts have been adduced and have been previously reported to the American ambassador, Paris.

The steamship *Sussex* at the time of the incident, viz, 2.50 p. m., March 24, 1916, was well outside territorial waters, proceeding on free route on the high seas. She carried no arms or armament; the cargo on board amounted to about only 3 tons, consisting of aeroplane wire, aeroplane cloth, and a few motorcycles. There were a large number of passengers on board, nearly one-half subjects of neutral States; also a large amount of first and second class mail matter. No warning of any kind was given the vessel, nor was a submarine sighted. The track of the torpedo was reported to have been seen by the commanding officer, who immediately ported his helm, stopped his starboard engine, and signaled it to go astern. The engine was stopped, but there was not time to obey the latter signal. This report of the commanding officer has been verified by personal conversation with the engineer on duty at the time.

Three American citizens have made sworn depositions to the American Ambassador, Paris, that they personally saw the track of the torpedo on the water just before the vessel was hit.

The exhibits in the case are tagged, sealed, and numbered from 1 to 16, inclusive. All these pieces except that numbered 16 were picked up

personally by Lieut. Smith from the steamship *Sussex*. Exhibit 16 was handed to Lieut. Smith by Capt. Balincourt, French Navy, who states that he personally picked it up from the deck of the *Sussex*.

Exhibits marked 1 and 2 have been compared with the head body screws of German torpedoes No. 1804 at Toulon and No. 2121 at Portsmouth, and have been found to be identical in size, pitch of screw, and characteristic markings.

After a comparison and close examination of German torpedo No. 1804 at Toulon; German torpedoes No. 2121 and No. 2340 at Portsmouth; fragments from German torpedo L. S. No. 5925 at Portsmouth; and from drawings and descriptions of German torpedo No. 3352, taken from I. M. S. *Emden*, we have been able to positively identify and locate all the other fragments picked up on board the steamship *Sussex*, that is, Exhibits 3 to 16, inclusive.

Exhibit 3; part of inner seat of water relieve valve of engine valve.

Exhibits 4 and 5; reënforcing bands of engine-room casing.

Exhibits 6 to 10, inclusive, and 12; parts of engine cylinders.

Exhibits 11, 13, 14, 15; parts of steel war head, still bearing the distinctive red paint common to German torpedo war heads.

Exhibit 16; part of lantern frame inside of either engine-room casing or maneuvering chamber.

There was also shown us at Portsmouth a piece of metal which was stated to have been picked up on board the steamship *Sussex* by Commander Harvey, R. N., who was a passenger on board the ship at the time. This we identified as forming part of a main engine piston of a German torpedo.

Inspection and examination of various types of German mines at Portsmouth confirmed and substantiated the opinions we had already formed from the examination of types of German mines at Boulogne, Rochefort, and Toulon; that is, that none of the fragments picked up on board the steamship *Sussex* could have possibly come from or formed part of any mine known to us.

We are of the opinion that the torpedo employed was one of a comparatively recent date; its serial number was probably between three and five thousand. The older types of German torpedoes employ guncotton for an explosive charge; the more recent are constructed of steel and are charged with T. N. T.

This being the case, the *Sussex* probably escaped total destruction by the fact that, as shown by the photographs which were taken of the

injury done to the vessel, the torpedo struck a glancing blow, well forward, and did not penetrate any of the machinery compartments.

We have, etc.,

WILLIAM R. SAYLES,
Lieut. Commander, U. S. Navy,
Naval Attaché, Paris.
BERNARD L. SMITH,
Lieut., U. S. M. C.,
Assistant Naval Attaché, Paris.

Affidavit of Ida E. Beer.

AMERICAN CONSULATE,
St. Gall, Switzerland, April 6, 1916.

Ida E. Beer, being first duly sworn, deposes and says:

I am the wife of Henry S. Beer, and, together with my husband, was a passenger on the steamer *Sussex* at the time of the accident to that vessel on March 24, 1916. We were on deck, my husband standing at the rail, watching the water and talking to a friend and I sitting in a steamer chair just behind them. I heard my husband exclaim, "a torpedo," and almost instantly the explosion followed. We were drenched with water and the whole fore part of the steamer was torn away. There had been no warning and no evidence of danger prior to the explosion.

IDA E. BEER.

Subscribed and sworn to before me this 6th day of April, 1916.

GEORGE NICOLAS IFFT,
American Consul.

[Seal of the American Consulate.]

The French Ambassador to the Secretary of State.

FRENCH EMBASSY,
Washington, April 9, 1916.

MY DEAR MR. SECRETARY: I had asked my Government after our conversation the other day whether there was anything in the statement

that the *Sussex* had carried troops before, and might therefore have been supposed by the submarine to have been so employed when it was torpedoed—one of the many excuses put forth as an explanation of the cruel deed.

The answer reached me this morning: The *Sussex* has *never* transported troops. As was well known to all, she has been plying for many years between Dieppe and England, and was following, when torpedoed, her usual route, well known also to sailors. This is what allowed to find her after the disaster and to save part of the crew and passengers.

The route followed by transport ships is quite a different one.

Believe me, etc.,

JUSSERAND.

Report of Military Observer Logan and Assistant Naval Attaché Smith.

AMERICAN EMBASSY,
Paris, April 13, 1916.

We arrived at Boulogne March 26, 1916, at about 8 p. m. That night at about 10 p. m. we were met by Capt. de Balincourt of the French Navy and the American consul from Calais.

March 27, in accordance with an appointment, we all met at 10 a. m. in Capt. de Balincourt's office. At this meeting we were informed that the findings of the French official inquiry into the *Sussex* incident were that the injuries to the *Sussex* were caused by a German torpedo. At this same meeting Capt. de Balincourt handed us fragment No. 16, which he claimed he had personally found on the upper deck after the arrival of the *Sussex* in Boulogne on March 26.

We agreed at this time, between ourselves, that we would not be justified in basing any of our findings on evidence of this character presented to us by French authorities or anyone else, but that our findings should be based, so far as any fragments were concerned, on the results of the actual search of the ship by one or the other of us. We had and have no reason to doubt the absolute sincerity and truthfulness of the statements made to us by the French authorities at Boulogne, but at no time did we allow these statements to influence our investigations and conclusions, as we fully realized at the time the prejudice of the French in the case.

One or both of us were on board the *Sussex* during the mornings and afternoons of March 27, 28, and 29, with the exception of the morning of the 28th, when we attended the questioning of certain witnesses by the French authorities.

During the afternoon of March 27, while Maj. Logan was examining members of the crew with the French naval lieutenant, Lieut. Smith, who was entirely alone, found a small fragment No. 9 on the port side of the hull near the keel. The position where this piece was found was very near to the point where the ship was struck and was wedged in a very inconspicuous place between a beam and the hull plating of the ship. Further search at this time by Lieut. Smith in the general vicinity of the explosion on both the port and starboard sides, and on the various decks revealed a piece of light steel casing with red paint on it. This latter fragment was at the time considered to be of doubtful origin but was retained, as it appeared to be of material foreign to the ship's material.

On the morning of March 28 we were present at the meeting referred to above. That same afternoon, while Maj. Logan was questioning Prof. Baldwin, Lieut. Smith, entirely alone, spent the afternoon on board the *Sussex*. He was unable to find any additional evidence near the explosion, so he went to the navigating bridge for the purpose of inspecting the compass and binnacle, as we wanted to assure ourselves that fragment No. 16, given us by the French authorities, did not come from this source. Finding the compass and binnacle intact he began to search among the débris on the bridge. After considerable search he found the bronze fragment No. 4 engaged between the port running light and the wooden shield behind it. He discovered this fragment while leaning out over the rail for the purpose of seeing in what condition the lights were.

Taking a clue from this he began to work aft along the port side of the deck house. In the port scupper alongside and practically hidden from view he found a screw bolt, No. 1 fragment. Continuing aft just to the wireless cabin he found several small fragments of bronze casing and another screw bolt. To the starboard of the wireless cabin he found fragment No. 5. This latter fragment was the only one he found in a position which could be called conspicuous. Fragment No. 3 he found by the saloon deck hatch located amidship of the deck house.

During the entire time of his search he was entirely alone; in fact, during his search over the deck house no other person was on deck.

Perhaps the most convincing evidence of the fact that these pieces

had not been placed on this ship for the purpose of deceiving us was the fact that on March 28 both Maj. Logan and Lieut. Smith were present during the cleaning out of the débris on the lower decks near the point of the explosion. This cleaning was being carried out for both the purpose of clearing the ship as well as for the search of possible dead still remaining on board. During the course of this cleaning out a portion of the leg of a man with a shoe on was discovered in the débris. The débris on the saloon deck was some 4 or 5 feet deep, and was very closely packed due to the action of the water when the ship was afloat at high tide. It bore convincing indications of not having been touched since the explosion. Maj. Logan and Lieut. Smith at this time found three fragments, Nos. 11, 13, and 14, which were uncovered from below this débris in their presence, and which every indication showed could not have been placed there after the explosion had occurred and the débris had accumulated and fallen on top.

The two screw bolts bear every evidence of having been in an extremely heavy explosion and in immediate contact with explosive material which caused a distinct fusing of portions of the bolts. Sheared diagonally in the threaded body of the bolts they appear to have been in contact with a melting force which left a glazed finish. In addition to this the bolts have been slightly bent, which appears to have come from a twisting force. The twist is opposite to the shear of the bolts. This twist is very characteristic of the effects that would naturally be expected from a bolt partially embedded diagonally in a solid body, such as is the case in the war head of a torpedo. It would be practically impossible to artificially fake all of these injuries to a screw bolt of this character.

From the time that the explosion occurred to the time that we made our investigations there was very naturally time for some party or parties to have placed fragments aboard the *Sussex* with a view to deceiving us. On the other hand, from the character of the fragments, their natural and inconspicuous location and their wide distribution, and the fact of certain fragments having been found under the débris, leads us to believe that it is wholly improbable that they were placed on board the ship after the explosion or that they came from any other source than the torpedo that hit the ship.

James A. Logan, Jr.,
Major, Q. M. C.
B. L. Smith,
1st Lieut. U. S. M. C.

Report of Naval Attachés Sayles and Smith and Military Observer Logan to Ambassador Sharp.

AMERICAN EMBASSY,
Paris, April 13, 1916.

SIR: We have the honor to submit the following report to accompany the fragments of an explosive engine found on board the steamship *Sussex* by Lieut. B. L. Smith, U. S. M. C., and Maj. Logan, U. S. A., on March 27 and 28, 1916, at Boulogne and compared with German torpedoes now in the hands of the French and English Governments.

The fragments are tagged, sealed, and numbered from 1 to 15, inclusive; on each tag there is also noted the location on board the *Sussex* where each piece was picked up by Lieut. Smith and Maj. Logan.

In addition to the above-mentioned fragments, there is also another piece found by Capt. Balincourt, French Navy, and turned over to Lieut. Smith. This fragment is also tagged, sealed, and bears the number 16.

This comparison was made with German torpedoes, fragments, and drawings, as follows:

1st. Torpedo—serial number 1804, at Toulon, France, picked up afloat in the English Channel during the month of April, 1915.

2d. Torpedo—No. 2121 and 2340, at Portsmouth, England, recovered from the channel or North Sea by the English Navy.

3d. Fragments of torpedo L. S. 5825, sketch A, figure 4, taken from the English ship *Orange Prince* after being torpedoed by a German submarine.

4th. Detailed drawing of a torpedo found on board H. I. M. S. *Emden* after her capture.

Inclosed with this report are four drawings, figures 1, 2, 3, and 4, on which are shown the places in which certain of the fragments fit. These sketches were made from the detailed drawings of a German torpedo in our possession and from drawings of the torpedo found on the *Emden*.

From the above the following results were obtained:

Fragments Nos. 1 and 2, bronze screw bolts bearing the markings 56K and 58K, respectively; compared absolutely with body screws

employed for joining head of torpedo to main body, as shown in sketch figure 1. Exhibit 1 (a) are two body screws taken from torpedo No. 1804; Exhibit 1 (b) is a body screw taken from torpedo No. 2121.

Fragment No. 3 shows resemblance to the inner seat, water-relief valve of engine valve, as shown by figure 3 of drawings of the *Emden's* torpedo.

Fragments Nos. 4 and 5, pieces of bronze with screw holes and one bearing a small screw, compared with fragments of torpedo L. S. 5825, sketch B, figure 4.

Fragments 7, 8, 9, and 10, pieces of bronze castings, some parts partially machined were identified as part of engine cylinder, as indicated in sketch figure 2.

Fragments Nos. 6 and 12, similar fragments of casting as 7, 8, 9, and 10, could not be positively located, but from the general form, material, and thickness undoubtedly form part of the engine clyinder of a German torpedo.

Fragments Nos. 11, 13, 14, and 15—pieces of steel casing and bearing the red paint common to German torpedoes were identified as fragments of the war head, sketch A, figure 1.

Fragment No. 16, in appearance a piece of bronze stiffening ring or engine frame, compared absolutely with fragment of torpedo No. L. S. 5825, which was a fragment of the steel casing, sketch A, figure 4, containing either part of the engine-room cage or a bronze stiffening frame riveted and soldered to the outer casing. All bronze parts were trimmed and painted identically with Exhibit No. 16.

Consequently, in view of the deductions made in our report of April 1, 1916, whereby the possibility of the explosion on board the *Sussex* having been caused by a mine was eliminated, and after due consideration of the above, we form the conclusion that the explosive engine which came into contact with the steamship *Sussex* at 2.50 p. m. March 24 was a German torpedo.

We have the honor, etc.

W. R. Sayles,
Lieut. Commander, U. S. Navy.
James A. Logan, Jr.,
Major, Q. M. C., U. S. Army.
B. L. Smith,
First Lieutenant, U. S. M. C.

Ambassador Sharp to the Secretary of State.

No. 3154.] AMERICAN EMBASSY,
Paris, May 4, 1916.

SIR: With reference to my dispatches and telegrams concerning the *Sussex*, I have the honor to inclose herewith, in copy and translation, the report of the French commission which examined the fragments of the torpedo found upon the steamer in question. This report, which was sent to me by the Minister for Foreign Affairs, is a confirmation of the conclusions reached by Commander Sayles, Maj. Logan, and Lieut. Smith in their independent investigation of the cause of the disaster to the *Sussex*.

I have, etc.,

For the Ambassador: ROBERT WOODS BLISS.

[Inclosure—Translation.]

REPORT OF THE COMMISSION CHARGED WITH THE EXAMINATION OF THE FRAGMENTS OF THE TORPEDO FOUND ON BOARD THE "SUSSEX"—DATE OF THE REPORT: APRIL 15, 1916.

In continuation of a ministerial dispatch of April 11, 1916, a commission composed of Messrs. Amiot, naval commander; Dupont, naval constructor; Stroch, naval constructor, sat for the purpose of examining the fragments of the torpedo found on board the *Sussex*.

In the first place the commission believes that all of the fragments which were presented to it are actually parts of a torpedo; there can only be doubt regarding three fragments of very thin sheet iron.

The commission has compared the fragments with pieces of the German torpedo No. 1804. The commission is of the opinion that the fragments are parts of a German torpedo, but of a slightly different model, doubtless a later model; but in every factory some details of construction are maintained from one model to another and preserve a characteristic appearance.

We have numbered the most noteworthy fragments from 1 to 6.

1. *Screw bolt.*—We found in the German torpedo No. 1804 the same screw bolt amongst the screw bolts of the head of the torpedo, with the same marking (K. Kopf, head) and the same number (6). It is the most characteristic piece.

The commission does not know of any other Navy than the German Navy in which the screw bolts of the different removable parts of the

torpedo are marked with a serial number. The mark No. 6 K. stamped on piece No. 1 indicates without doubt that it refers to the screw bolt No. 6 of the head of a German torpedo.

The commission adds to the fragments submitted to its examination the screw bolt No. 6 of the cone of the torpedo No. 1804 (longitudinal screw bolt), and as an example of the methods of marking the screw bolt No. 2 of the head of the same torpedo.

2 and 3. *Valve chest.*—The screw thread was identified with that of the screw plugs of the valve chest of the German torpedo No. 1804; the differences which exist between pieces Nos. 2 and 3 and the corresponding parts of the torpedo No. 1804 may arise from differences in the model of the torpedo.

4 and 5. *Bottom and sides of the cylinder.*—The form, the curves and the thickness are very nearly the same as those of the corresponding pieces of the torpedo No. 1804. In any case they are certainly fragments of the cylinder of the motor of an automobile torpedo.

6. *Fragment of a casing.*—One of the screws which fitted into it has been lost. The fragment is rather formless; nevertheless it corresponds well, as far as construction is concerned, and particularly as far as means of fixing is concerned, to engine-room casing of the motor.

To sum up:

Piece No. 1 is doubtless the bolt screw No. 6 of the head of a German torpedo; pieces 2 and 3 are probably fragments of the valve chest of an automobile torpedo; note that the threading is identical with that of the seat of the plugs of the valve chest of the German torpedo No. 1804.

Pieces 4 and 5 are certainly fragments of the bottom and the walls of the cylinder of the motor of an automobile torpedo, which can be found in the German torpedo No. 1804.

Piece No. 6 can not be definitely located; nevertheless, in thickness, aspect, and the screw holes which are found in it, it corresponds well with part of the casing of the engine.

With the exception of the three fragments of sheet iron all the other unnumbered débris seem to originate from an automobile torpedo.

The commission adds to its present report a plan of the engine of the German torpedo No. 1804, on which it has marked the probable origin of fragments Nos. 2, 3, 4, and 5.

The members of the commission: DUPONT.
The Naval Commander, STROCH.
President: AMIOT.

2. CORRESPONDENCE WITH AUSTRIA-HUNGARY REGARDING SUBMARINE INTERFERENCES WITH COMMERCIAL VESSELS.

The Secretary of State to Ambassador Penfield.

DEPARTMENT OF STATE,
WASHINGTON, *December 6, 1915.*

Please deliver a note to the Minister of Foreign Affairs, textually as follows:

Reliable information obtained from American and other survivors who were passengers on the steamship *Ancona* shows that on November 7 a submarine flying the Austro-Hungarian flag fired a solid shot toward the steamship; that thereupon the *Ancona* attempted to escape, but being overhauled by the submarine she stopped; after that a brief period and before the crew and passengers were all able to take to the boats the submarine fired a number of shells at the vessel and finally torpedoed and sank her while there were yet many persons on board; and that by gunfire and foundering of the vessel a large number of persons lost their lives or were seriously injured, among whom were citizens of the United States.

The public statement of the Austro-Hungarian Admiralty has been brought to the attention of the Government of the United States and received careful consideration. This statement substantially confirms the principal declaration of the survivors, as it admits that the *Ancona* after being shelled was torpedoed and sunk while persons were still on board.

The Austro-Hungarian Government has been advised, through the correspondence which has passed between the United States and Germany, of the attitude of the Government of the United States as to the use of submarines in attacking vessels of commerce, and the acquiescence of Germany in that attitude, yet with full knowledge on the part of the Austro-Hungarian Government of the views of the Government of the United States as expressed in no uncertain terms to the ally of Austria-Hungary, the commander of the submarine which attacked the *Ancona* failed to put in a place of safety the crew and passengers of the vessel which they purposed to destroy because, it is presumed, of the impossibility of taking it into port as a prize of war.

The Government of the United States considers that the commander violated the principles of international law and of humanity by shelling and torpedoing the *Ancona* before the persons on board had been put in a place of safety or even given sufficient time to leave the vessel. The

conduct of the commander can only be characterized as wanton slaughter of defenseless non-combatants, since at the time when the vessel was shelled and torpedoed she was not, it appears, resisting or attempting to escape; and no other reason is sufficient to excuse such an attack, not even the possibility of rescue.

The Government of the United States is forced, therefore, to conclude either that the commander of the submarine acted in violation of his instructions or that the Imperial and Royal Government failed to issue instructions to the commanders of its submarines in accordance with the law of nations and the principles of humanity. The Government of the United States is unwilling to believe the latter alternative and to credit the Austro-Hungarian Government with an intention to permit its submarines to destroy the lives of helpless men, women, and children. It prefers to believe that the commander of the submarine committed this outrage without authority and contrary to the general or special instructions which he had received.

As the good relations of the two countries must rest upon a common regard for law and humanity, the Government of the United States can not be expected to do otherwise than to demand that the Imperial and Royal Government denounce the sinking of the *Ancona* as an illegal and indefensible act; that the officer who perpetrated the deed be punished; and that reparation by the payment of an indemnity be made for the citizens of the United States who were killed or injured by the attack on the vessel.

The Government of the United States expects that the Austro-Hungarian Government, appreciating the gravity of the case, will accede to its demand promptly; and it rests this expectation on the belief that the Austro-Hungarian Government will not sanction or defend an act which is condemned by the world as inhumane and barbarous, which is abhorrent to all civilized nations, and which has caused the death of innocent American citizens.

LANSING.

Ambassador Penfield to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Vienna, December 15, 1915.

Department's 1011, December 6, 6 p. m.

Following note received from Minister for Foreign Affairs noon to-day:

In reply to the much esteemed note number 4167, which His Excellency, Mr. Frederic Courtland Penfield, Ambassador Extraordinary and Plenipotentiary of the United States of America, directed to him in the name of the American Government under date of the 9th instant

in the matter of the sinking of the Italian steamer *Ancona*, the undersigned, preliminary to a thorough, meritorious treatment of the demand, has the honor to observe that the sharpness with which the Government of the United States considers it necessary to blame the commanding officer of the submarine concerned in the affair and the firmness in which the demands addressed to the Imperial and Royal Government appear to be expressed might well have warranted the expectation that the Government of the United States should precisely specify the actual circumstances of the affair upon which it bases its case. As is not difficult to perceive, the presentation of the facts in the case in the aforesaid note leaves room for many doubts; and even if this presentation were correct in all points and the most rigorous legal conception were applied to the judgment of the case, it does not in any way sufficiently warrant attaching blame to the commanding officer of the war vessel or to the Imperial and Royal Government.

The Government of the United States has also failed to designate the persons upon whose testimony it relies and to whom it apparently believes it may attribute a higher degree of credibility than to the commander of the Imperial and Royal fleet. The note also fails to give any information whatsoever as to the number, names, and more precise fate of the American citizens who were on board of the said steamer at the critical moment.

However, in view of the fact that the Washington Cabinet has now made a positive statement to the effect that citizens of the United States of America came to grief in the incident in question, the Imperial and Royal Government is in principle ready to enter into an exchange of views in the affair with the Government of the United States. It must, however, in the first place, raise the question why that Government failed to give juridical reasons for the demands set forth in its note with reference to the special circumstances of the incriminating events upon which it itself lays stress, and why, in lieu thereof, it referred to an exchange of correspondence which it has conducted with another Government in other cases. The Imperial and Royal Government is the less able to follow the Washington Cabinet on this unusual path, since it by no means possesses authentic knowledge of all of the pertinent correspondence of the Government of the United States, nor is it of the opinion that such knowledge might be sufficient for it in the present case, which, in so far as it is informed, is in essential points of another nature than the case or cases to which the Government of the United States seems to allude. The Imperial and Royal Government may therefore leave it to the Washington Cabinet to formulate the particular points of law against which the commanding officer of the submarine is alleged to have offended on the occasion of the sinking of the *Ancona*.

The Government of the United States has also seen fit to refer to the attitude which the Berlin Cabinet assumed in the above-mentioned correspondence. The Imperial and Royal Government finds in the much esteemed note no indication whatever of the intent with which

this reference was made. Should, however, the Government of the United States thereby have intended to express an opinion to the effect that a precedent of whatever nature existed for the Imperial and Royal Government with respect to the juridical consideration of the affair in question this Government must, in order to preclude possible misunderstandings, declare that as a matter of course it reserves to itself full freedom of maintaining its own legal views in the discussion of the case of the *Ancona*.

In having the honor to have recourse to the kindness of His Excellency, the Ambassador of the United States of America, with the most respectful request to be good enough to communicate the foregoing to the American Government, and on this occasion to state that the Imperial and Royal Government, in no less degree than the American Government and under all circumstances, most sincerely deplores the fate of the innocent victims of the incident in question, the undersigned at the same time avails himself of this opportunity to renew the expression of his most distinguished consideration to His Excellency, the ambassador.

(Signed.) BURIAN.
PENFIELD.

The Secretary of State to Ambassador Penfield.

[Telegram.]

DEPARTMENT OF STATE,
No. 1039.] *Washington, December 19, 1915.*

You are instructed to address a note to the Austro-Hungarian Minister of Foreign Affairs, textually as follows:

The Government of the United States has received the note of Your Excellency relative to the sinking of the *Ancona*, which was delivered at Vienna on December 15, 1915, and transmitted to Washington, and has given the note immediate and careful consideration.

On November 15, 1915, Baron Zwiedenek, the Chargé d'Affaires of the Imperial and Royal Government at Washington, transmitted to the Department of State a report of the Austro-Hungarian Admiralty with regard to the sinking of the steamship *Ancona*, in which it was admitted that the vessel was torpedoed after her engines had been stopped and when passengers were still on board. This admission alone is, in the view of the Government of the United States, sufficient to fix upon the commander of the submarine which fired the torpedo the responsibility for having wilfully violated the recognized law of nations and entirely disregarded those humane principles which every belligerent should observe in the conduct of war at sea. In view of these admitted circumstances

the Government of the United States feels justified in holding that the details of the sinking of the *Ancona*, the weight and character of the additional testimony corroborating the Admiralty's report, and the number of Americans killed or injured are in no way essential matters of discussion. The culpability of the commander is in any case established, and the undisputed fact is that citizens of the United States were killed, injured, or put in jeopardy by his lawless act.

The rules of international law and the principles of humanity which were thus wilfully violated by the commander of the submarine have been so long and so universally recognized and are so manifest from the standpoint of right and justice that the Government of the United States does not feel called upon to debate them and does not understand that the Imperial and Royal Government questions or disputes them.

The Government of the United States therefore finds no other course open to it but to hold the Imperial and Royal Government responsible for the act of its naval commander and to renew the definite but respectful demands made in its communication of the 6th of December, 1915. It sincerely hopes that the foregoing statement of its position will enable the Imperial and Royal Government to perceive the justice of those demands and to comply with them in the same spirit of frankness and with the same concern for the good relations now existing between the United States and Austria-Hungary which prompted the Government of the United States to make them.

LANSING.

Ambassador Penfield to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Vienna, December 29, 1915.

The following reply to my note of the 21st instant, communicating textually the contents of the Department's telegram No. 1039 of December 19th, 1 p. m., was received this afternoon.

[Translation.]

In reply to the very esteemed note No. 4307, of the 21st instant, the undersigned has the honor most respectfully to communicate to His Excellency the Ambassador of the United States of America, Mr. Frederic Courtland Penfield, the following:

The Imperial and Royal Government thoroughly agrees with the Washington Cabinet that even in war the sacred demands of humanity must be complied with. Just as it has hitherto never given anyone

occasion to doubt its respect for these demands, it has also given numerous proofs of its most humane sentiments, both toward enemies and neutrals, throughout the entire course of this war, which is presenting such convulsive pictures of moral confusion, and it was not its fault that not long ago it did not agree with the Washington Cabinet on a question which it, in unison with the entire public opinion in Austria-Hungary, regarded principally as a question of humanity.

Also as concerns the principle expressed in the very esteemed note that hostile private ships, in so far as they do not flee or offer resistance, may not be destroyed without the persons on board having been placed in safety, the Imperial and Royal Government is able substantially to assent to this view of the Washington Cabinet.

The Imperial and Royal Government is very responsive to the assurance that the Government of the United States attaches value to the maintenance of the good relations which happily exist between Austria-Hungary and the United States of America; it reciprocates this assurance most warmly and is now as ever, as far as lies within its power, zealous to render these relations still more cordial.

Guided by the same spirit of candor as is the American Government, the Imperial and Royal Government, although it does not find in the aforesaid note a reply to all of its justified questions, is ready to communicate to the Government of the United States the result of the investigation which was instituted, in accordance with the existing internal regulations, immediately after the receipt of the naval report on the sinking of the *Ancona* and which has been very recently concluded. The results of this investigation may be summarized as follows:

On November 7, 1915, at 11.40 a. m., in thick weather, the commander of the submarine saw the outlines of a large Italian steamer suddenly emerge from the fog one point to the starboard at a distance of about 3,000 meters, in latitude 38 degrees, 40 minutes North and longitude 10 degrees, 8 minutes East. He first took it for a transport steamer and put about and then fired a wide warning shot from the after gun; at the same time he displayed the signal "leave the ship." The steamer did not stop, but on the contrary turned away and attempted to escape. The commander at first remained stationary several minutes in order to increase the distance, as he feared that the steamer might have a stern gun and use it against the submarine. When the distance had increased to 4,500 meters, he took up the pursuit at full power and fired from the bow gun 16 shells at decreasing range and observed three hits. During the pursuit the steamer steered a zigzag course and did not stop until after the third hit. Thereupon the commander ceased firing. Even during the flight the steamer while at full speed dropped several boats with people, which immediately capsized; after stopping it began to rig out the boats. At a distance of about 2,000 meters the commander saw that six boats were completely filled and rapidly pulled away from the steamer. Another boat had capsized and was floating keel upward; the people were hanging on to the lines and to the capsized

boat. During the further approach of the submarine the commander saw that great panic was prevailing on board and that he was dealing with a passenger steamer, viz, the *Ancona*, of Genoa. He therefore accorded the people on board of the steamer more than the necessary time for leaving the ship in the lifeboats. There were still on board at least 10 lifeboats, which would have more than sufficed for the rescue of the people still on board. One of these boats was completely filled and hung on the half-rigged out boat davits. As no further measures were being taken to rig out the boats, the commander decided after the lapse of 45 minutes to torpedo the ship in such a way that it would still remain above water for a considerable length of time so that, on the one hand, the rigging out of the boats would be accelerated and, on the other hand, sufficient opportunity would remain for rescuing the people still on board.

Shortly thereafter a steamer was sighted heading for the *Ancona* developing a great amount of smoke and which apparently had been summoned to the *Ancona* by radio telegraphy. As the commander of the submarine had to count upon an attack from the steamer, which he took to be an enemy cruiser, he submerged after having had a torpedo launched at 12.35 p. m. from a distance of 800 meters at the forehold of the *Ancona*. After that torpedo shot the latter listed about 10 degrees to starboard. At this time an attempt was made to completely lower the half-rigged-out lifeboat; it carried away, however, and fell into the water. The boat remained afloat, keel downward, and the people clung to the gunwale. None of the remaining boats were lowered to the water, although people were still seen on board. The steamer gradually righted itself to an even keel and sank so slowly that the commander of the submarine at first doubted whether the steamer would go down; as late as 1.20 it sank, bow first, after slowly submerging parallel to the water line. During this further period of 45 minutes it would have been easily possible to rescue by means of the available boats persons still on board. From the circumstances that, contrary to expectations, this did not happen, commander concluded that, contrary to all seamanlike custom, the crew had effected their own rescue in the first boats and left the passengers intrusted to their protection to themselves.

At the time of the incident the weather was good and the sea was smooth, so that the lifeboats could have reached the nearest coast without danger, as in fact lifeboats were damaged only through inexpert lowering but not after reaching the water. The loss of human lives is in no way to be attributed in the first instance to the sinking of the ship, but—and according to all probability in a much higher degree—to the dropping of the first boats while under way at full speed, as well as to the fact that the crew, thinking only of themselves, did not rescue the passengers of the capsized boats and also possibly to the projectiles which struck the fleeing ship. But also the death of the persons who went down with the steamer is above all to be attributed to the conduct of the crew, which was contrary to the requirements of their duty.

As is apparent from above-cited facts of the case, the very esteemed note of the 9th instant proceeds in several points from incorrect assumptions. The information reaching the American Government that a solid shot was immediately fired toward the steamer is incorrect. It is incorrect that the submarine overhauled the steamer during the pursuit. It is incorrect that only a brief period was accorded for the disembarkation of the people; to the contrary an unusually long time was given the *Ancona* for the disembarkation of the passengers. Finally, it is incorrect that a number of shells were still fired at the steamer after it had stopped.

The facts in the case further permit it to be recognized that the commander of the submarine granted the steamer full 45 minutes; that is more than sufficient time to afford the persons on board opportunity for disembarkation. Then when the people had still not been rescued he effected the torpedoing in such a way that the ship would remain above water as long a time as possible; this with the intention of enabling the disembarkation in the boats still available. As the steamer remained above water 45 minutes more he would indeed have accomplished this purpose if the crew had not in violation of their duty left the passengers in the lurch.

Notwithstanding all appreciation of this procedure of their commander aiming at the rescue of the crew and passengers, the Imperial and Royal naval authorities came to the conclusion that he had failed to take into sufficient consideration the panic which occurred amongst the passengers rendering the embarkation more difficult and the spirit of the regulation that Imperial and Royal naval officers should not refuse help to anyone in distress, not even to the enemy. Hence the officer has been punished in accordance with the rules in force in this matter for exceeding his instructions.

In this state of affairs the Imperial and Royal Government does not hesitate to draw the appropriate conclusions with reference to the indemnification of the American citizens affected by the sinking of the prize.

In this respect it must however make the following observations: As a matter of course the investigation into the sinking of the *Ancona* could not establish to what degree American citizens are entitled to a claim for indemnity. Even according to the view of the Washington Cabinet, the Imperial and Royal Government can not be held answerable for the injuries which were caused by the undoubtedly justified firing upon the fleeing ship. Just as little might it have to answer for the injuries which occurred before the torpedoing due to the faulty rigging out of the boats or to the capsizing of the boats which had been lowered.

The Imperial and Royal Government must assume that the Washington Cabinet is able and willing to furnish it with the information which is required in this respect and which is certainly not immaterial. However should the more precise circumstances under which the American citizens were injured be unknown to the Government of the United

States due to a lack of the proper material evidence, the Imperial and Royal Government in consideration of the humanely deeply deplorable incident and guided by the desire of again manifesting to the Government of the United States its friendly sentiments, would be readily willing to overlook this gap in the evidence and to extend the indemnity also to those injuries the direct cause of which could not be ascertained.

While the Imperial and Royal Government may well regard the *Ancona* case as cleared up by the foregoing representations it, at the same time, reserves to itself for a future time the discussion of the difficult questions of international law in connection with submarine warfare.

The undersigned has the honor to have recourse to the kindness of His Excellency the Ambassador of the United States of America with the most respectful request that he be good enough to communicate the foregoing to the Government of the United States and at the same time avails himself, etc.

BURIAN.
PENFIELD.

The Secretary of State to Ambassador Penfield.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, April 17, 1916.

Mr. Lansing informs Mr. Penfield that the Department has been informed that the Russian bark *Imperator* while bound from Gulfport, Miss., to Marseille, France, with a lumber cargo, was destroyed by an Austrian submarine off the Spanish coast of the Mediterranean near the Columbretes Islands on April 11. There were two American citizens on board the vessel, one of whom was wounded during the attack. Mr. Penfield is instructed to lay the above facts before the Foreign Office and to state that a prompt report is expected from the Austrian Government.

Ambassador Penfield to the Secretary of State

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Vienna, May 3, 1916.

Mr. Penfield reports statement by the Austrian Ministry of Foreign Affairs to the effect that an Austrian submarine on the morning of

April 11, 1916, stopped a schooner bark about 27 nautical miles east of the Columbretes Islands by a warning shot fired across the schooner's bow at about 5,000 meters distance. In answer to the signal "Show your flag" the Russian flag was displayed, and in reply to the signal "Quit the ship immediately" it was observed that no attempt was made to launch boats nor was any sail removed. When it was seen that no preparation was being made to quit the ship the Austrian submarine approached quite slowly to a distance of 400 meters and, after waiting at that distance for some time, fired a second shot through the rigging of the schooner. There elapsed between the first and the second shot the space of at least half an hour. The crew left the ship immediately after the second shot, rowing toward the submarine in two boats. There were in the boats two men who were slightly wounded, evidently by wood splinters or by pieces from shell. One of these men, according to his statement, a Norwegian, with a slight head wound and with the first joint of his right thumb torn off, and another, a Russian Finn, with a slight flesh wound in the upper thigh, were treated on board the submarine and then returned to their boats, which the submarine took in tow because of their smallness and towed toward the Columbretes Islands in a westerly direction until the *Barendrecht*, a Dutch tank steamer en route to Barcelona was sighted about 3 p. m. and asked to take the men on board. There was, according to the ship's papers, only one American citizen, viz, Eineraxel Swenson, on board.

The commander of the submarine boat has no knowledge of his being wounded, but, if, to the regret of the Austro-Hungarian authorities, this should prove to be the fact, it can only be explained by the fact that the bark failed to comply with the submarine's challenge to stop when ordered.

The Secretary of State to Ambassador Penfield.

[Telegram.]

DEPARTMENT OF STATE,
Washington, June 21, 1916.

Evidence obtained from the captain and members of crew of the steamer *Petrolite*, and from examination made of the vessel under direction of the Navy Department, convinces this Government that the Austro-Hungarian Government has obtained an incorrect report of the

attack on the steamer. With particular reference to the explanation made by the Foreign Office, the following information, briefly stated, has been obtained from sworn statements of the captain and members of crew:

No shot was fired across the bow of the steamer as a signal to stop. When the first shot was fired the captain was under the impression that an explosion had taken place in the engine room. Not until the second shot was fired did the captain and crew sight the submarine, which was astern of the steamer and therefore they positively assert that neither the first nor the second shot was fired across the bow of the vessel.

The steamer did not swing around in a course directed toward the submarine as alleged in the report obtained by the Austro-Hungarian Government, but the captain at once stopped the engines and swung the vessel broadside to the submarine and at right angles to the course of the vessel, in order to show its neutral markings, which was manifestly the reasonable and proper course to follow, and it ceased to make any headway. On the steamer was painted its name in letters approximately 6 feet long, and the name of the hailing port, and, as has previously been made known to Austro-Hungarian Government, the steamer carried two large flags some distance above the water line which it is positively stated by the officers and crew were flying before the first shot was fired, and were not hoisted after the first shot, as stated by the submarine commander.

The submarine commander admits that the steamer stopped her engines. The captain of the *Petrolite* denies that the vessel was ever headed toward the submarine, and the examination of the steamer made by an American naval constructor corroborates this statement, because, as he states, the shell which took effect on vessel, striking the deck-house which surrounds the smokestack, was fired from a point 45 degrees on the starboard bow. This was one of the last shots fired and indicates that ship was not headed toward the submarine even up to the time when the submarine ceased firing. The captain states that the submarine appeared to be maneuvering so as to direct her shots from ahead of the steamer. The submarine fired approximately 12 shots. The majority of the shots were fired after the ship had stopped and had swung broadside, and while, even as the commander of submarine admits, the steamer was flying the American flag. The captain of the steamer denies that he advised the commander of the submarine that the damage to the steamer was insignificant. He states that he advised

him that steamer had been damaged, but that he not then had an opportunity to ascertain the extent of the damage. The seaman who was struck by a fragment of shell sustained severe flesh wounds.

If the ship had intended to ram the submarine, she would not have stopped her engines and this must have been evident to the submarine commander. Naval authorities here agree that there could have been no danger of the ship ramming the submarine until it was headed straight for the submarine and was under power, and even then the submarine could have so maneuvered as to avoid collision. The *Petrolite* was 2 miles away from the submarine. The engines and funnel of the *Petrolite* were at the stern, and from the general appearance of the ship no experienced naval officer could have believed that it had opportunity or sufficient speed to attack even if it had been steaming directly toward the submarine. The conduct of the submarine commander showed lack of judgment, self-control, or wilful intent amounting to utter disregard of the rights of a neutral.

According to the sworn statements of the captain of the steamer and a seaman who accompanied him to the submarine, the commander of the latter stated that he mistook the steamer for a cruiser. This statement is at variance with the statement in the Austro-Hungarian Government's note that the captain of the submarine asserted a false maneuver on the part of the steamer prompted the submarine to continue to fire.

The captain of the steamer swears that he informed the commander of the submarine that he had only sufficient provisions to reach the port of Algiers, and that he would deliver provisions only under compulsion. He states positively in his affidavit and in conversation with officials of the Department that he did not give provisions readily nor did he say it was the duty of one seaman to help another, and that he refused payment because he felt that he was being compelled to deliver food in violation of law. The statement of the captain of the *Petrolite* is entirely at variance with the report of the submarine commander. The correctness of the captain's opinion that the wounded seaman was held as a hostage to guarantee the delivery of food seems clear. Obviously the commander of the submarine had no right to order the seaman to remain on board. The fact that this order was given showed that the commander insisted that food was to be delivered to him, otherwise the seaman would naturally have accompanied the captain back to his vessel. The outrageous conduct of the submarine commander and all the circumstances of the attack on the *Petrolite* warranted the captain

in regarding himself as being compelled in order to avoid further violence to deliver food to the commander of the submarine.

In the absence of other and more satisfactory explanation of the attack on the steamer than that contained in the note addressed to you by the Foreign Office, the Government of the United States is compelled to regard the conduct of the commander of the submarine in attacking the *Petrolite* and in coercing the captain as a deliberate insult to the flag of the United States and an invasion of the rights of American citizens for which this Government requests that an apology be made; that the commander of the submarine be punished; and that reparation be made for the injuries sustained, by the payment of a suitable indemnity.

Please communicate with Foreign Office in sense of foregoing.

You may add that this Government believes that the Austro-Hungarian Government will promptly comply with these requests, in view of their manifest justness and the high sense of honor of that Government which would not, it is believed, permit an indignity to be offered to the flag of a friendly power or wrongs to its nationals by an Austro-Hungarian naval officer without making immediate and ample amends.

LANSING.

3. CORRESPONDENCE REGARDING WARFARE BETWEEN SUBMARINES AND ARMED MERCHANT VESSELS.

Informal and confidential letter from the Secretary of State to the British Ambassador.[1]

DEPARTMENT OF STATE,
Washington, January 18, 1916.

MY DEAR MR. AMBASSADOR: It is matter of the deepest interest to my Government to bring to an end, if possible, the dangers to life which attend the use of submarines as at present employed in destroying enemy commerce on the high seas, since on any merchant vessel of belligerent nationality there may be citizens of the United States who have taken passage or are members of the crew, in the exercise of their recognized rights as neutrals. I assume that your excellency's Government are equally solicitous to protect their nationals from the exceptional hazards which are presented by their passage on a merchant vessel through those portions of the high seas in which undersea craft of their enemy are operating.

While I am fully alive to the appalling loss of life among noncombatants, regardless of age or sex, which has resulted from the present method of destroying merchant vessels without removing the persons on board to places of safety, and while I view that practice as contrary to those humane principles which should control belligerents in the conduct of their naval operations, I do not feel that a belligerent should be deprived of the proper use of submarines in the interruption of enemy commerce since those instruments of war have proven their effectiveness in this particular branch of warfare on the high seas.

In order to bring submarine warfare within the general rules of international law and the principles of humanity without destroying its efficiency in the destruction of commerce, I believe that a formula may be found which, though it may require slight modifications of the practice generally followed by nations prior to the employment of sub-

[1] Same, *mutatis mutandis*, to the Ambassador of France, the Russian Ambassador, the Ambassador of Italy, the Belgian Minister, and, on January 24, 1916, to the Japanese Ambassador.

marines, will appeal to the sense of justice and fairness of all the belligerents in the present war.

Your excellency will understand that in seeking a formula or rule of this nature I approach it of necessity from the point of view of a neutral, but I believe that it will be equally efficacious in preserving the lives of all noncombatants on merchant vessels of belligerent nationality.

My comments on this subject are predicated on the following propositions:

1. A noncombatant has a right to traverse the high seas in a merchant vessel entitled to fly a belligerent flag and to rely upon the observance of the rules of international law and principles of humanity if the vessel is approached by a naval vessel of another belligerent.

2. A merchant vessel of enemy nationality should not be attacked without being ordered to stop.

3. An enemy merchant vessel, when ordered to do so by a belligerent submarine, should immediately stop.

4. Such vessel should not be attacked after being ordered to stop unless it attempts to flee or to resist, and in case it ceases to flee or resist, the attack should discontinue.

5. In the event that is it impossible to place a prize crew on board of an enemy merchant vessel or convoy it into port, the vessel may be sunk, provided the crew and passengers have been removed to a place of safety.

In complying with the foregoing propositions which, in my opinion, embody the principal rules, the strict observance of which will insure the life of a noncombatant on a merchant vessel which is intercepted by a submarine, I am not unmindful of the obstacles which would be met by undersea craft as commerce destroyers.

Prior to the year 1915 belligerent operations against enemy commerce on the high seas had been conducted with cruisers carrying heavy armaments. Under these conditions international law appeared to permit a merchant vessel to carry an armament for defensive purposes without losing its character as a private commercial vessel. This right seems to have been predicated on the superior defensive strength of ships of war, and the limitation of armament to have been dependent on the fact that it could not be used effectively in offense against enemy naval vessels, while it could defend the merchantmen against the generally inferior armament of piratical ships and privateers.

The use of the submarine, however, has changed these relations. Comparison of the defensive strength of a cruiser and a submarine shows that

the latter, relying for protection on its power to submerge, is almost defenseless in point of construction. Even a merchant ship carrying a small caliber gun would be able to use it effectively for offense against a submarine. Moreover, pirates and sea rovers have been swept from the main trade channels of the seas, and privateering has been abolished. Consequently, the placing of guns on merchantmen at the present day of submarine warfare can be explained only on the ground of a purpose to render merchantmen superior in force to submarines and to prevent warning and visit and search by them. Any armament, therefore, on a merchant vessel would seem to have the character of an offensive armament.

If a submarine is required to stop and search a merchant vessel on the high seas and, in case it is found that she is of enemy character and that conditions necessitate her destruction, to remove to a place of safety all persons on board, it would not seem just or reasonable that the submarine should be compelled, while complying with these requirements, to expose itself to almost certain destruction by the guns on board the merchant vessel.

It would, therefore, appear to be a reasonable and reciprocally just arrangement if it could be agreed by the opposing belligerents that submarines should be caused to adhere strictly to the rules of international law in the matter of stopping and searching merchant vessels, determining their belligerent nationality, and removing the crews and passengers to places of safety before sinking the vessels as prizes of war, and that merchant vessels of belligerent nationality should be prohibited and prevented from carrying any armament whatsoever.

In presenting this formula as a basis for conditional declarations by the belligerent Governments, I do so in the full conviction that your Government will consider primarily the humane purpose of saving the lives of innocent people rather than the insistence upon a doubtful legal right which may be denied on account of new conditions.

I would be pleased if you would be good enough to bring this suggestion to the attention of your Government and inform me of their views upon the subject, and whether they would be willing to make such a declaration conditioned upon their enemies making a similar declaration.

A communication similar to this one has been addressed to the Ambassadors of France, Russia, and Italy, and the Minister of Belgium at this capital.

I should add that my Government is impressed with the reasonable-

ness of the argument that a merchant vessel carrying an armament of any sort, in view of the character of submarine warfare and the defensive weakness of undersea craft, should be held to be an auxiliary cruiser and so treated by a neutral as well as by a belligerent Government, and is seriously considering instructing its officials accordingly.

I am, etc., ROBERT LANSING.

Ambassador Penfield to the Secretary of State.

[Extract.]

No. 1293.] AMERICAN EMBASSY,
Vienna, February 12, 1916.

SIR: I have the honor to transmit herewith inclosed a copy, with translation, of a circular note verbale, dated the 10th instant, from the Austro-Hungarian Ministry of Foreign Affairs, as communicated in my telegram of that date, No. 1144, announcing that orders had been issued to the Austro-Hungarian naval forces to treat all merchant vessels armed with cannon as vessels of war.

This announcement, which was made simultaneously with a similar one by the German Government, has been received with general approval by the entire newspaper press in the Monarchy.

I have, etc., FREDERIC C. PENFIELD.

[Inclosure—Translation.]

No. 14061/7 1916] IMPERIAL AND ROYAL
MINISTRY OF FOREIGN AFFAIRS,
Vienna, February 10, 1916.

CIRCULAR NOTE VERBALE.

The Governments of the neutral powers are aware that in the course of the year 1913 the British Admiralty caused a number of large English merchant vessels to be armed. As was announced on the 26th of March, 1913, in the House of Commons by the First Lord of the Admiralty, the armament of the said steamers was to protect them against the dangers from enemy vessels transformed into auxiliary cruisers and at the same time to serve only for defense.

The experiences gained during the course of the present war show that

a considerable number of British merchant steamers have made use of guns placed on board them against hostile war vessels, and that not only with the intention of resisting the legitimate exercise of the right of capture but also of attacking and destroying hostile war vessels.

As appears from a memorandum transmitted by the Imperial German Government to the neutral powers under to-day's date, instructions have been found on board English steamers proving that the Royal British Government themselves have incited their merchant vessels to these illegal acts, and that in direct contradiction of the assurances given to the Department of State at Washington.

The example of Great Britain has been followed during the course of the hostilities by her allies, especially by France and by Italy.

Without desiring to enter into an investigation of the strange claim put forward by the Royal British Government, according to which the merchant vessels, armed by the said Government, preserved their inoffensive character, whereas a merchant vessel armed by an enemy is to be considered by the English naval forces as an auxiliary cruiser, the Imperial and Royal Government limit themselves to stating that all merchant ships armed with cannon, for whatever purpose, by this very fact lose the character of peaceable vessels.

Under these conditions orders have been given to the Austro-Hungarian naval forces to treat such ships as belligerent vessels, an order which, however, will not be put into execution until the 29th of February, 1916.

This delay is granted in the interest of the neutral powers, to the end that they may preserve their nationals from the danger to which they expose themselves by entrusting their persons and goods to armed merchant vessels of the states at war with Austria-Hungary and may also warn those of their nationals who find themselves already on board the vessels of the category indicated.

To the Embassy of the United States of America, Vienna.

Ambassador Gerard to the Secretary of State.

No. 2451.] AMERICAN EMBASSY,
Berlin, February 14, 1916.

SIR: I have the honor to transmit to you herewith three copies of the memorandum of the Imperial German Government on the treatment

of armed merchantmen, dated February 8, 1916, which formed the subject of my telegrams No. 3467, of the 9th, and No. 3474, of the 10th instant. There are likewise inclosed a translation of the text of the memorandum and a copy and translation of the note verbale from the Imperial Foreign Office, dated February 10, 1916, with which the memorandum was transmitted to me.

I have, etc., JAMES W. GERARD.

[Inclosure 1—Translation.]

III a 1909.
26921.

FOREIGN OFFICE,
Berlin, February 10, 1916.

NOTE VERBALE.

The Foreign Office has the honor to transmit herewith to the embassy of the United States of America three copies of a memorandum of the Imperial German Government on the treatment of armed merchantmen, with inclosures, and to request that the embassy be good enough to bring the essential contents of the memorandum to the knowledge of its Government by telegraph, informing it at the time that the order to the German naval forces mentioned in Section IV, No. 1, of the memorandum will not be carried into effect until the 29th instant, in the interest of neutrals already on board armed merchant vessels.

[Inclosure 2—Translation.]

MEMORANDUM OF THE IMPERIAL GERMAN GOVERNMENT ON THE TREATMENT OF ARMED MERCHANTMEN.

I.

1. Even before the outbreak of the present war the British Government had given English shipping companies the opportunity to arm their merchant vessels with guns. On March 26, 1913, Winston Churchill, then First Lord of the Admiralty, made the declaration in the British Parliament (Exhibit 1) that the Admiralty had called upon the shipowners to arm a number of first-class liners for protection against danger menaced in certain cases by fast auxiliary cruisers of other powers; the liners were not, however, to assume the character of auxiliary cruisers themselves. The Government desired to place at the disposal of the shipowners the necessary guns, sufficient ammunition, and suitable personnel for the training of the gun crews.

2. The English shipowners have readily responded to the call of the Admiralty. Thus Sir Owen Philipps, president of the Royal Mail Steam Packet Company, was able to inform the stockholders of his company in May, 1913, that the larger steamers of the company were equipped with guns; furthermore, the British Admiralty published in January, 1914, a list, according to which 29 steamers of various English lines carried guns aft.

3. As a matter of fact, German cruisers ascertained soon after the outbreak of the war that English liners were armed. For example, the steamer *La Correntina*, of the Houlder Line, of Liverpool, which was captured by the German auxiliary cruiser *Kronprinz Friedrich Wilhelm* on October 7, 1914, had two 4.7-inch guns aft. On February 1, 1915, a German submarine was shelled in the Channel by an English yacht.

II.

1. With regard to the legal character of armed merchantmen in international law, the British Government has taken the position in respect of its own merchantmen that such vessels retain the character of peaceable merchant vessels as long as they carry the arms for defensive purposes only. In accordance with this, the British Ambassador at Washington, in a note dated August 25, 1914 (Exhibit 2), gave the American Government the fullest assurances that British merchant vessels were never armed for purposes of attack, but solely for defense, and that they consequently never fire unless first fired upon. On the other hand, the British Government set up the principle for armed vessels of other flags that they are to be treated as war vessels. Number 1 of Order 1 of the Prize Court Rules, promulgated by the Order in Council of August 5, 1914, expressly provides "ship of war shall include armed ship."

2. The German Government has no doubt that a merchantman assumes a warlike character by armament with guns, regardless of whether the guns are intended to serve for defense or attack. It considers any warlike activity of an enemy merchantman contrary to international law, although it accords consideration to the opposite view by treating the crew of such a vessel not as pirates but as belligerents. The details of its position are set forth in the memorandum on the treatment of armed merchantmen in neutral ports (Exhibit 3) communicated to the American Government in October, 1914, the contents of which were likewise communicated to other neutral Powers.

3. Some of the neutral Powers have accepted the position of the

British Government and therefore permitted armed merchantmen of the belligerent Powers to stay in their ports and shipyards without the restrictions which they had imposed on ships of war through their neutrality regulations. Some, however, have taken the contrary view and subjected armed merchantmen of belligerents to the neutrality rules applicable to ships of war.

III.

1. During the course of the war the armament of English merchantmen has been more and more generally carried out. From reports of the German naval forces numerous cases became known in which English merchantmen not only offered armed resistance to the German war vessels, but proceeded to attack them on their own initiative, and in so doing they frequently even made use of false flags. A list of such cases is found in Exhibit 4, which from the nature of the matter can include only a part of the attacks which were actually made. It is also shown by this list that the practice described is not limited to English merchantmen, but is imitated by the merchantmen of England's allies.

2. The explanation of the action of the armed English merchantmen described is contained in Exhibits 5 to 12, which are photographic reproductions of confidential instructions of the British Admiralty found by German naval forces on captured ships. These instructions regulate in detail artillery attack by English merchantmen on German submarines. They contain exact regulations touching the reception, treatment, activity, and control of the British gun crews taken on board merchantmen; for example, the crew are not to wear uniform in neutral ports and thus plainly belong to the British navy. Above all it is shown by the instructions that these armed vessels are not to await any action of maritime war on the part of the German submarines, but are to attack them forthwith. In this respect the following regulations are particularly instructive:

a. The instructions for guidance in the use, care, and maintenance of armament in defensively armed merchant ships (Exhibits 5 and 6) provide in the section headed "Action," in paragraph 4: "It is not advisable to open fire at a range greater than 800 yards unless the enemy has already opened fire." From this it is the duty of the merchantman in principle to open fire without regard to the attitude of the submarine.

b. The instructions regarding submarines applicable to vessels carrying a defensive armament (Exhibits 9 and 10) prescribe under Number 3

"If a submarine is obviously pursuing a ship by day and it is evident to the master that she has hostile intentions, the ship pursued should open fire in self-defense, notwithstanding the submarine may not have committed a definite hostile act such as firing a gun or torpedo." From this also the mere appearance of a submarine in the wake of a merchantman affords sufficient occasion for an armed attack.

In all these orders, which do not apply merely to the zone of maritime war around England, but are unrestricted as regards their validity (see Exhibit 12 for the Mediterranean), the greatest emphasis is laid on secrecy, plainly in order that the action of merchantmen, in absolute contradiction of international law and the British assurances (Exhibit 2) might remain concealed from the enemy as well as the neutrals.

3. It is thus made plain that the armed English merchantmen have official instructions to attack the German submarines treacherously wherever they come near them, that is to say orders to conduct relentless warfare against them. Since England's rules of maritime war are adopted by her allies without question the proof must be taken as demonstrated in respect of the armed merchantmen of the other enemy countries also.

IV.

In the circumstances set forth above enemy merchantmen armed with guns no longer have any right to be considered as peaceable vessels of commerce. Therefore the German naval forces will receive orders, within a short period paying consideration to the interests of the neutrals, to treat such vessels as belligerents.

The German Government brings this status of affairs to the knowledge of the neutral Powers in order that they may warn their nations against continuing to entrust their persons or property to armed merchantmen of the powers at war with the German Empire.

Berlin, February 8, 1916.

Exhibit 1.

DECLARATION OF THE FIRST LORD OF THE ADMIRALTY, WINSTON CHURCHILL, AT THE SESSION OF THE BRITISH LOWER HOUSE OF MARCH 26, 1913.

(Parliamentary Debates, Official Report, 3d Session of the 30th Parliament, House of Commons, 1913, Bd. 1 S. 1776 bis 1776.)

I turn to one aspect of trade protection which requires special refer-

ence. It was made clear at the second Hague Conference and the London Conference, that certain of the great Powers have reserved to themselves the right to convert merchant steamers into cruisers, not merely in national harbours, but if necessary on the high seas. There is now good reason to believe that a considerable number of foreign merchant steamers may be rapidly converted into armed ships by the mounting of guns. The sea-borne trade of the world follows well-marked routes upon nearly all of which the tonnage of the British mercantile marine largely predominates. Our food-carrying liners and vessels carrying raw material following these trade routes would in certain contingencies meet foreign vessels armed and equipped in the manner described. If the British ships had no armament, they would be at the mercy of any foreign liner carrying one effective gun and a few rounds of ammunition. It would be obviously absurd to meet the contingency of considerable numbers of foreign armed merchant cruisers on the high seas by building an equal number of cruisers. That would expose this country to an expenditure of money to meet a particular danger, altogether disproportionate to the expense caused to any foreign Power in creating that danger. Hostile cruisers, wherever they are found, will be covered and met by British ships of war, but the proper reply to an armed merchantman is another merchantman armed in her own defense.

This is the position to which the Admiralty have felt it necessary to draw the attention of leading shipowners. We have felt justified in pointing out to them the danger to life and property which would be incurred if their vessels were totally incapable of offering any defense to an attack. The shipowners have responded to the Admiralty invitation with cordiality, and substantial progress has been made in the direction of meeting it by preparing a defensive measure to equip a number of first-class British liners to repel the attack of armed foreign merchant cruisers. Although these vessels have, of course, a wholly different status from that of the regularly commissioned merchant cruisers, such as those we obtain under the Cunard agreement, the Admiralty have felt that the greater part of the cost of the necessary equipment should not fall upon the owners, and we have decided, therefore, to lend the necessary guns, to supply ammunition, and to provide for the training of members of the ship's company to form the guns crews. The owners on their part are paying the cost of the necessary structural conversion, which is not great. The British mercantile marine will, of course, have

the protection of the Royal Navy under all possible circumstances, but it is obviously impossible to guarantee individual vessels from attack when they are scattered on their voyages all over the world. No one can pretend to view these measures without regret, or without hoping that the period of retrogression all over the world which has rendered them necessary, may be succeeded by days of broader international confidence and agreement, than those through which we are now passing.

Exhibit 2.

EXTRACT FROM THE OFFICIAL PUBLICATION OF THE STATE DEPARTMENT OF THE UNITED STATES OF AMERICA.

"European War No. 2, Diplomatic Correspondence with Belligerent Governments Relating to Neutral Rights and Duties." Page 41.[1]

The British Ambassador to the Secretary of State.

No. 289.] British Embassy,
Washington, August 25, 1914.

Sir: With reference to Mr. Barclay's notes Nos. 252 and 259 of the 4th and 9th of August, respectively, fully explaining the position taken up by His Majesty's Government in regard to the question of armed merchantmen, I have the honour, in view of the fact that a number of British armed merchantmen will now be visiting United States ports, to reiterate that the arming of British merchantmen is solely a precautionary measure adopted for the purpose of defence against attack from hostile craft.

I have at the same time been instructed by His Majesty's Principal Secretary of State for Foreign Affairs to give the United States Government the fullest assurances that British merchant vessels will never be used for purposes of attack, that they are merely peaceful traders armed only for defence, that they will never fire unless first fired upon, and that they will never under any circumstances attack any vessel.

I have, etc.,

Cecil Spring Rice.

[1] Special Supplement, July, 1915, p. 230.

Exhibit 3.

MEMORANDUM OF THE GERMAN GOVERNMENT CONCERNING THE TREATMENT OF ARMED MERCHANT VESSELS IN NEUTRAL PORTS, OF OCTOBER 13, 1914.

"An official notice appearing in the Westminster Gazette of September 21, 1914, states that the Department of State at Washington has ruled that ships of belligerent nations when equipped with ammunition and armament shall be treated nevertheless, while in American ports, as merchant ships, provided the armament serves for defensive purposes only. This ruling wholly fails to comply with the principles of neutrality. The equipment of British merchant vessels with artillery is for the purpose of making armed resistance against German cruisers. Resistance of this sort is contrary to international law, because in a military sense a merchant vessel is not permitted to defend itself against a war vessel, an act of resistance giving the warship the right to send the merchant ship to the bottom with crew and passengers. It is a question whether or not ships thus armed would be admitted into ports of a neutral country at all. Such ships, in any event, should not receive any better treatment in neutral ports than a regular warship, and should be subject at least to the rules issued by neutral nations restricting the stay of a warship. If the Government of the United States considers that it fulfills its duty as a neutral nation by confining the admission of armed merchant ships to such ships as are equipped for defensive purposes only, it is pointed out that so far as determining the warlike character of a ship is concerned, the distinction between the defensive and offensive is irrelevant. The destination of a ship for use of any kind in war is conclusive, and restrictions as to the extent of armament afford no guarantee that ships armed for defensive purposes only will not be used for offensive purposes under certain circumstances."

Exhibit 4.

[Translation.]

DIGEST OF CASES IN WHICH ENEMY MERCHANT SHIPS HAVE FIRED ON GERMAN OR AUSTRO-HUNGARIAN SUBMARINES.

Date.	Place.	Nationality and name of the ship.	Particulars of surrounding circumstances.
1915			
Apr. 11	South North Sea, near the Nordhinder lightship.	Unknown steamer.	Steamer without a flag. Steamer saw periscope; opened gunfire at about 3,000 meters and turned on U . . . Report of the shells could be heard near the boat (about 15 or 20 shots).
Apr. 28	North Sea, about 60 nautical miles N.E. of the mouth of the Tyne.	Unknown steamer of medium size.	Steamer was sighted running onward; suddenly opened fire at about 3,000 meters without hoisting flag. On account of her head-on position it could not be seen whether she bore neutral marks. From the impact of the shots the guns were from 5 to 7 centimeters. U . . . escaped the well-directed fire by speedily submerging.
May 29	West entrance to the English Channel, near Ouessant (Ushant Island).	English S. S. *Demerara.*	U . . . chased the steamer and tried when 4,500 meters off to bring her to a halt by firing warning guns. Steamer turned off and returned the fire.
June 3	West entrance to the English Channel, 50 nautical miles south of the Scilly Isles.	Unknown steamer.	U . . . tried to bring the steamer to a halt by firing warning shots with her artillery. The steamer returned the fire with a poop gun.
June 14	West of the Hebrides (about 30 nautical miles off Lewis).	Two unknown steamers.	The two steamers were running close together—at about 4,000 meters—both opened fire on U . . . with

DIGEST OF CASES IN WHICH ENEMY MERCHANT SHIPS HAVE FIRED ON GERMAN OR AUSTRO-HUNGARIAN SUBMARINES—*Continued.*

Date.	Place.	Nationality and name of the ship.	Particulars of surrounding circumstances.
1915			small caliber poop guns. Shots hit sideways very bad. Speedy submerging, running deep; so submarine attack hopeless.
Aug. 14	Irish Sea.	Large English steamer of the Royal Mail Line.	U . . . was fired on suddenly by the steamer without provocation from a distance of 8,000 meters. Shots fell short. No attack was attempted on the steamer.
Aug. 18	Bristol Channel.	Unknown steamer.	Tried to bring steamer to a halt by gunfire after warning. When steamer saw that U boat was waiting she suddenly opened fire with a gun from the promenade deck.
Sept. 10	Western Mediterranean.	do.	A steamer was challenged to show her flag; she turned away without hoisting the flag and opened fire with a 10-centimeter poop gun on the U boat, which escaped the firing by speedily submerging.
Oct. 7	Middle Mediterranean.	French S. S. *Amiral Hametin.*	U . . . signaled the steamer to stop; she turned away and ran on a zigzag course. The U boat tried to bring the steamer to a halt by artillery fire; when about 3,000 meters distant she returned the fire. It was some time before the steamer stopped. She was sunk later.

DIGEST OF CASES IN WHICH ENEMY MERCHANT SHIPS HAVE FIRED ON GERMAN OR AUSTRO-HUNGARIAN SUBMARINES—*Continued.*

Date.	Place.	Nationality and name of the ship.	Particulars of surrounding circumstances.
1915			
Nov. 3	Western Mediterranean.	English transport steamer *Woodfield.*	The steamer did not stop at the warning gun. At a distance of 6,000 meters she returned the fire with a small gun. She was forced to stop by artillery fire and her crew list showed that the steamer carried gunners and enlisted men of the navy as members of her crew.
Nov. 5	Western Mediterranean.	Unknown steamer.	A large steamer was chased by U . . . after being challenged in vain. The steamer returned the fire with a large gun. The chase had to be given up.
Nov. 6	Eastern Mediterranean.	English tank steamer *Lumina.*	The steamer was challenged to stop by a warning gun. She turned about, ran away, and returned the fire with a poop gun. She was compelled to stop by artillery fire and later was sunk.
Nov. 11	Western Mediterranean.	English S. S. *City of Marseille.*	U . . . after warning tried to stop a large freight steamer by artillery fire. The steamer turned away and returned the fire with two guns of about 10 centimeters. The U boat had to give up the chase; the steamer got away. A press telegram of January 1, 1916, from Bombay told the incident in detail; the steamer claimed she had sunk the U-boat.

DIGEST OF CASES IN WHICH ENEMY MERCHANT SHIPS HAVE FIRED ON GERMAN OR AUSTRO-HUNGARIAN SUBMARINES—*Continued.*

Date.	Place.	Nationality and name of the ship.	Particulars of surrounding circumstances.
1915			
Nov. 30	Middle Mediterranean.	Unknown steamer.	U . . . after a warning gun tried to stop a large steamer by artillery fire. The steamer turned away and returned the fire with a small gun.
Dec. 8	Eastern Mediterranean.	do.	The steamer was approached under water. She fired with a poop gun on the periscope as soon as it emerged.
Dec. 13	Middle Mediterranean.	Unknown English steamer.	U . . . tried to stop by artillery fire a large steamer with poop guns that showed no flag. The steamer hoisted the English flag and returned the fire with two guns.
Dec. 14	do.	Unknown steamer.	U . . . approached the steamer which stopped at sight of the boat and ordered her to show her flag. The steamer speeded away keeping up a brisk fire from a poop gun.
1916			
Jan. 17	do.	do.	U . . . ordered a steamer apparently in ballast, that was sighted on a westerly coast, to stop. The steamer turned about, ran away, and fired with a poop gun.
Jan. 17	do.	English S. S. *Melanie.*	U . . . signalled a flush-decked freight steamer with raised forecastle and cabin of about 3,000 tons, sailing under the Dutch flag, to send a boat and

DIGEST OF CASES IN WHICH ENEMY MERCHANT SHIPS HAVE FIRED ON GERMAN OR AUSTRO-HUNGARIAN SUBMARINES—*Continued.*

Date.	Place.	Nationality and name of the ship.	Particulars of surrounding circumstances.
			have the ship's papers examined. This was done after a while. As U . . . which for safety's sake had gone under, came to the surface about 1,000 meters away from the steamer near the ship's boat, the steamer opened fire with two guns of medium caliber and machine guns so briskly that the U . . . barely saved herself by speedily submerging. Throughout the action, the steamer displayed the Dutch flag; she bore the name of *Melanie* which is found not in the Dutch, but in the English marine list.

Exhibit 5

[Exhibit 5 is a duplicate of Exhibit 6, with the following modifications: The side note to paragraphs 1–5 under the heading "General" reading "not applicable to ocean-going vessels permanently armed" does not appear in Exhibit 5; a clause reading "in one of the officers' messes" has been omitted in Exhibit 6 after the word "but" in paragraph 5 of the same heading; and paragraph 6 with its subdivisions i and ii have been added in Exhibit 6 under the heading "Instructions for Carrying and Firing Practice."—Ed.]

Exhibit 6.

(Found on the English Steamer *Woodfield.*)

Confidential.

INSTRUCTIONS FOR GUIDANCE IN THE USE, CARE, AND MAINTENANCE OF ARMAMENT IN DEFENSIVELY ARMED MERCHANT SHIPS.

General.

not applicable to ocean-going vessels permanently armed.

1. Ratings embarked as gun's crew will sign the ship's articles at the rate of pay communicated.

2. They are to obey the orders of the master and officers of the ship. If they think it necessary to make a complaint against any order, they are to obey the order and make their complaint in writing, asking that it may be forwarded to the proper authorities.

3. The ratings are not required for duties unconnected with the armament except in case of emergency, but they are to assist at all times in the welfare of the ship and look after the cleanliness of their berths.

4. They are to keep watch and watch at sea, and also when the ship is anchored in any place liable to attack by submarines.

5. They will receive their pay through the master of the ship. They will not mess with the crew, but as the master may decide.

6. Uniform is not to be worn in neutral ports.

7. A brief report is to be rendered by the senior rating on the 1st of each month, countersigned by the master, and sent to:

The Director of Trade Division,
Admiralty, Whitehall, S. W.

Drill and Maintenance of Gun.

8. The ratings embarked are entirely responsible for the efficiency in all respects of the gun and ammunition, which should be ready day and night.

9. The senior rating is to arrange with the master to detail the necessary additional men to complete the gun's crew up to the numbers required by the drill book.

10. One of the ratings is to act as gun layer and the other as breech worker. The remaining numbers should be told off to act as sight setter, projectile loader, and cartridge loader, etc.

11. Arrangements are to be made with the master to detail a sufficient number of hands, over and above the gun's crew, to supply ammunition to the gun on going into action.

12. A ready supply of 10 complete rounds, with percussion tubes in the cartridges, is to be kept at the gun day and night. Care should be taken that a supply of one percussion tube to each cartridge is kept aside for action, and this supply of tubes is never to be encroached on for practice firing.

13. The senior rating should arrange with the master for the instruction of the ratings told off as gun's crew and ammunition supply party.

14. A drill book is supplied for information, but it is not necessary that the gun's crew should be burdened with details, provided that they understand what is required when the gun is to be fought.

15. Percussion firing should always be used, as it is the most certain means of discharging the gun; and therefore—

(*a*) Cartridges, in ready supply only, should be kept ready tubed with percussion tubes. Tubes not required for ready supply of cartridges should be retained in their sealed boxes to preserve them from damp.

(*b*) Aiming practice with a percussion lanyard should be carried out daily. It is not necessary to fire a tube in this practice, but the breech worker should be exercised at the same time in cocking the striker while the breech is open and in hooking on the firing lanyard and passing it to the gun layer.

NOTE.—The present allowance of percussion tubes is one per cartridge. Electric firing mechanism and batteries are therefore to be kept efficient in every respect in case the supply of percussion tubes becomes insufficient from damp or other causes.

16. Great attention is to be paid to the ready supply of ammunition to keep it clean and dry. If tubes and cartridges are not kept dry there is considerable danger of hanging fire. The projectiles are to be lightly oiled. In case the cartridges are suspected to have become wet they should be laid aside until return to harbour.

17. For the maintenance of the gun and mounting it is to be borne in mind that "lubrication is the secret of efficiency in gun machinery." All oil channels should be seen clear of vaseline and filled with oil. It is to be remembered that vaseline is a preservative only; oil is a lubricant.

Each morning and evening the bore is to be seen clear, recoil cylinders filled, striker protrusion gauged, and the gun trained and elevated to both extremes.

The gun is to be cleaned twice a day, gear being supplied by the master.

Brickdust is *not* to be used on machined surfaces.

Action.

The master is responsible for handling the ship and for opening and ceasing fire. He has been furnished with instructions which will enable him to do this to the best advantage. The duty of the gun's crew is to fight the gun under the general direction of the master, who will communicate to them so much of the instructions as he may consider necessary to enable them to fight the gun to the best advantage.

In action the following instructions should be carried out:

(1) When in submarine waters everything should be in a state of readiness, but the gun should not be kept actually loaded.

(2) When the enemy is engaged—

(*a*) The point of aim should be the centre of the water line.

(*b*) It is to be remembered that "over" shots are useless. A short shot by causing a splash confuses the enemy. It may ricochet into the enemy. If the shell bursts on striking the water, as it usually does, some fragments are likely to hit the enemy. To get the best results at least half of the shots fired should fall short.

(3) The master will probably keep the submarine astern, so that little deflection will be necessary.

(4) It is not advisable to open fire at a range greater than 800 yards, unless the enemy has already opened fire, for the following reasons:

(*a*) The ammunition supply is limited.

(*b*) Accurate shooting under probable existing conditions can not be expected at greater ranges.

(5) When in action and a miss fire occurs with a percussion tube, the following procedure is to be adopted:

(*a*) The B. M. lever is to be tapped to insure it is closed.

(*b*) The striker is to be recocked.

If the gun does not then fire, the striker is to be taken out to insure that the point is not broken. If unbroken, the breech is to be opened and

the cartridge is to be thrown overboard, it having been ascertained that the percussion tube has been inserted.

The gun is then to be reloaded.

Instructions for Carrying out Firing Practice.

1. In order to ensure that the gun is maintained in an efficient condition, one round is to be fired every two months.

2. In order to prevent false alarms it is essential that the firing referred to in paragraph 1 shall take place in clear weather and out of sight of land *and of other ships.*

3. If convenient a cask or other suitable object should be dropped as a target, and the gun should be fired when the range is about 800 yards.

4. The gun's crew and ammunition supply party should be exercised on the day previous to the practice, and also immediately before firing.

5. Before practice firing the following procedure is to be carried out:

(*a*) Recoil cylinders and tanks are to be seen filled.

(*b*) Bore is to be seen clear.

(*c*) Moveable objects in the way of blast from the gun are to be removed.

(*d*) The striker is to be examined to see—

(1) That sheath net is screwed up and keep pin in place and intact.

(2) That needle set and check-nuts are screwed up.

(3) That striker does not protrude with B. M. lever in open position.

(4) That striker does not move forward till marks on breech block and gun are in line.

(5) That safety stop is correct and keep-screw is in place.

(6) In guns fitted with "A" breech mechanism, the mechanism is never to be taken apart.

Paragraphs (1), (2), and (5) do not apply, but the following should be seen to:

(*i*) The nut retaining striker must be seen screwed up and keep-screw in place.

(*ii*) The needle retaining-nut should be seen screwed up taut.

ADMIRALTY,

7 May, 1915.

EXHIBIT 7.

(Found on the English Steamer *Woodfield.*)

Confidential.

ADDENDA TO INSTRUCTIONS FOR GUIDANCE IN THE USE, CARE, AND MAINTENANCE OF ARMAMENT IN DEFENSIVELY ARMED MERCHANT SHIPS.

1. The master should arrange wherever possible that the space in the immediate vicinity of the gun is railed off, and passengers and other unauthorized persons should not be allowed near the gun.

2. A notice to this effect should be posted up near the gun.

3. When the ship is in harbour, one of the two ratings is always to be on board to keep guard on the gun and ammunition, and the master is to use his discretion as to keeping both ratings on board, should he consider such a course to be desirable.

4. The gun is to be kept covered at all times when not in use.

5. Whenever the ships anchor in the vicinity of a man-of-war, a request should be made to the commanding officer of the man-of-war for an armourer to inspect the gun and mounting.

ADMIRALTY,

27 May, 1915.

EXHIBIT 8.

(Found on the English Steamer *Woodfield.*)

DRILL BOOK FOR 12-PR. Q. F. GUNS ISSUED TO DEFENSIVELY ARMED MERCHANT SHIPS. ADMIRALTY, GUNNERY BRANCH.

(G. 6118/15. May 1915.)

[Translation.]

Note: The contents of this Drill Book have only a military interest.

EXHIBIT 9.

[Exhibit 9 is a duplicate of Exhibit 10 down to paragraph 6 of the latter. Exhibit 9 bears No. 45 and is dated 25th February, 1915.—ED.]

Exhibit 10.

(Found on the English Steamer *Woodfield.*)

Confidential. No. 291.

IN NO CIRCUMSTANCES IS THIS PAPER TO BE ALLOWED TO FALL INTO THE HANDS OF THE ENEMY.

This paper is for the master's personal information. It is not to be copied, and when not actually in use is to be kept in safety in a place where it can be destroyed at a moment's notice.

Such portions as call for immediate action may be communicated verbally to the officers concerned.

April, 1915.

INSTRUCTIONS REGARDING SUBMARINES APPLICABLE TO VESSELS CARRYING A DEFENSIVE ARMAMENT.

1. Defensively armed vessels should follow generally the instructions for ordinary merchant ships.

2. In submarine waters guns should be kept in instant readiness.

3. If a submarine is obviously pursuing a ship by day and it is evident to the master that she has hostile intentions, the ship pursued should open fire in self-defence, notwithstanding the submarines may not have committed a definite hostile act, such as firing a gun or torpedo.

4. In view of the great difficulty in distinguishing a friend from an enemy at night, fire should not be opened after dark unless it is absolutely certain that the vessel fired at is hostile.

5. Before opening fire the British colours must be hoisted.

It is essential that fire should not be opened under neutral colours.

6. If a defensively armed vessel is pursued by a submarine the master has two alternatives:

(*a*) To open fire at long range immediately it is certain that the submarine is really in pursuit.

(*b*) To retain fire until the submarine has closed to a range, say 800 yards, at which fire is likely to be effective. In view of the very great difficulty of distinguishing between friendly and hostile submarines at long range (one British submarine has already been fired at by a merchant vessel which erroneously supposed herself to be pur-

sued by the submarine), it is strongly recommended that course (*b*) should be adopted by all defensively armed ships.

7. A submarine's flag is no guide to her nationality, as German submarines frequently fly British colours.

8. Vessels carrying a defensive armament and proceeding to neutral ports must not be painted in neutral colours or wear a neutral flag.

9. It is recommended that in neutral ports, particularly those of Spain, the armament should be concealed as far as possible. A canvas cover is recommended for this purpose.

Exhibit 11.

(Found on the English Steamer *Woodfield*.)

Secret.

MEMORANDUM FOR ISSUE TO MASTERS OF TRANSPORTS CARRYING TROOPS.

Use of Rifle and Machine Gun Fire by Troops on Board Transports against Enemy Submarines or Torpedo Craft.

(1) In daylight a submarine will probably attack while submerged with only her periscope showing.

At night, in moonlight, a submarine may attack while on the surface or with only her conning tower above water owing to the difficulty of seeing through the periscope at night.

(2) In either case heavy rifle or machine-gun fire will make it more difficult for a submarine to make a successful shot with a torpedo. If submerged, no injury will be done to her, but a good volume of fire falling just short of the periscope will make splashes which will render it difficult for the observer to see clearly through the periscope.

(3) When a destroyer escort is accompanying a transport, troops should not open fire on a submarine, as it may prevent a destroyer from ramming her, nor should their weapons be loaded, in order to avoid the possibility of an escorting vessel being fired on by mistake, especially at night.

(4) When no escort is provided, machine guns should be in readiness to open fire, and a strong party of riflemen should also be on duty.

(5) Military officers should be in command both of the machine guns and riflemen to control the fire.

(6) A military officer of the watch should be in command of the troops on deck. He should not order fire to be opened on a hostile submarine or torpedo vessel without the previous assent of the master or his representative—the ship's officer of the watch.

(7) The object of those controlling the fire should be to keep the centre of the pattern just short of the hostile vessel.

(8) Machine-gun tripods can be lashed to the rails or other deck fittings. If there is motion on the ship and machine guns are fitted with elevating or training gear, it is advisable to disconnect it and point the gun by hand.

(9) Field guns with recoil mountings might possibly be secured on deck in such a manner as to permit of their being fired, but their arc of training would be very restricted, and it is unlikely that gun layers, without previous training afloat, could make satisfactory practice from a ship with motion on. Their use is not, therefore, recommended.

(10) In men-of-war it has been the practice for very many years to station sentries with ball cartridge on deck opposite the boats in the event of fire, collision, or other serious emergency likely to lead to the boats being required. Their duties are to prevent anyone getting into the boats or attempting to lower the boats without orders from the captain or his representative. This practice should be followed in transports.

ADMIRALTY,
31st May, 1915.

EXHIBIT 12.

(Found on the English Steamer *Linkmoor.*)

ADMIRAL SUPERINTENDENT'S OFFICE,
Malta, June, 1915.

Instructions to British Merchant Vessels Passing Through the Mediterranean Sea.

It is now certain that there are enemies submarines at sea in the Mediterranean.

In order to avoid attack you are to keep out of the track of shipping.

You are to darken ship at night and are not to show navigation lights except, at discretion, to avoid collision, and all lights are to be extinguished when necessity is passed.

You are to carry out the procedure recommended by the Admiralty in their printed instructions if a hostile submarine is sighted.

The German Ambassador to the Secretary of State.

GERMAN EMBASSY,
Washington, February 29, 1916.

MY DEAR MR. SECRETARY: With reference to our conversation of yesterday I beg to state that, according to wireless information which I received from my Government, English newspapers, amongst others the London Times and Daily Graphic, dealing with the question of armed merchantmen, openly declare that British merchantmen have no intention to conform even to the American viewpoint which permits arming of merchantmen for purposes of defense only.

The naval correspondent of the London Times, in the edition of February 10th, admits that steamers *Kashgar*, *City of Marseille*, and the French steamer *Plata* opened fire on submarines after sighting them. The correspondent then, referring to the episode of the *Clan McTavish*, says that it did not meet deserved success, but that it shows the readiness with which merchantmen can "attack."

Likewise Daily Graphic in an article of February 12th, dealing with the same question, says: "Let it be understood that we shall not limit our action to defensive measures." A similar utterance is reported about in the Daily Graphic of February 22nd.

On the other hand the semi-official North German Gazette on February 26th, referring to President Wilson's letter to Senator Stone, as viewed by Reuter, publishes the following article:

The principles stated in the German memorandum are by no means opposed to international law, for secret orders of the British Admiralty published in the memorandum expressly instruct armed British merchantmen to not only defend themselves but to attack also. Numerous incidents quoted in the memorandum give further proof that the ships follow this instruction. Such vessels according to international law cease to be peaceful trading ships. On the other hand the precedent taken by our enemies appears as gross breach of law of nations, since they through merchantmen commit acts of warfare that only a real man-of-war is entitled to. If President Wilson in his letter to Senator Stone says that announced measures against armed enemy merchant ships are contrary to express assurances given by Germany and Austro-Hungary, this is apparently caused by misunderstanding. For these

assurances referred only to peaceful liners and not to such ships whose armament is connected with aggressive purposes. These misunderstandings were apparently caused by the fact that the memorandum with annexes is not yet in the hands of the American Government and that therefore the President is so far unable to examine both.

I am, etc., J. BERNSTORFF.

Informal letter from the British Ambassador to the Secretary of State.[1]

BRITISH EMBASSY,
Washington, March 23, 1916.

MY DEAR MR. SECRETARY: I did not fail to communicate to my Government copy of your unofficial letter of the 18th January relative to submarine warfare.

My Government has given the matter its careful consideration in consultation with the Allied Governments and, in obedience to my instructions, I beg to communicate the accompanying memorandum embodying its views.

I am, etc., CECIL SPRING RICE.

[Inclosure—Translation.]

BRITISH EMBASSY,
Washington, D. C.

MEMORANDUM.

Upon perusal of the personal letter addressed under date of January 18th last, by the Honorable Secretary of State of the United States to the Ambassador of England at Washington, the Government of His Britannic Majesty could not but appreciate the lofty sentiments by which Mr. Lansing was inspired on submitting to the countries concerned certain considerations touching the defensive armament of merchant vessels. But the enemy's lack of good faith, evidenced in too many instances to permit of their being regarded as isolated accidents justifies the most serious doubt as to the possibility of putting into practice the suggestions thus formulated.

From a strictly legal standpoint, it must be admitted that the arming

[1] Similar note with similar memorandum received from the Ambassador of France, March 22, from the Russian Ambassador, March 23, from the Ambassador of Italy, March 23, and from the Belgian Minister, March 23.

of merchant vessels for defense is their acknowledged right. It was established in some countries by long usage, in other countries it was expressly sanctioned by the legislator, such being the case in the United States, in particular.

It being so, it seems obvious that any request that a belligerent forego lawful means of protection from the enemy's unlawful attacks places, upon him, whoever he may be, who formulates the proposition, the duty and responsibility of compelling that enemy to desist from such attacks, for the said enemy would otherwise be encouraged rather to persist in that course. Now the suggestions above referred to do not provide any immediately efficacious sanction.

It is a matter of public knowledge that Germany as early as August, 1914, strewed mines over the Northern seas of Europe and later other seas without regard to any of the requirements of international law. The attendant loss of human lives and of vessels, though neutral, carrying innocent cargo was large. The perpetrators of those acts appear to have drawn encouragement from impunity.

The first act of that nature dates back to October 26, 1914. On that date, the French mail Steamer, *Amiral Ganteaume* unarmed, carrying from one point on the French coast to another, 2,500 civilian refugees largely consisting of women, children, and old men, was torpedoed without summons. Many lives were lost. After a thoroughgoing inquiry into the circumstances of the outrage, France served every neutral power with a statement thereof, but no useful result was achieved. As no sanction intervened, crimes of that description were repeated in large numbers thereafter.

In February of last year, Germany again grew so bold as to proclaim that it generalized its criminal action while limiting it to the Northern Seas of Europe. Whereupon and soon thereafter it began the same proceedings in the Atlantic Ocean, the Mediterranean and wherever a chance offered, and attacked neutral as well as allied vessels, passenger ships as well as freighters.

Great Britain is unable to agree that upon a non-guaranteed German promise, human life may be surrendered defenseless to the mercy of an enemy who, in circumstances of this kind as in many others, has shown himself to be both faithless and lawless.

At the end of his letter, the Honorable Secretary of State hypothetically considered the possibility of eventual decisions under which armed merchant vessels might be treated as auxiliary cruisers.

It is His Britannic Majesty's Government's conviction that the realization of such a hypothesis which would materially modify, to Germany's advantage, the statement of views published in this respect by the American Government on September 19, 1914, can not be given practical consideration by the American authorities.

Such a modification indeed would be inconsistent with the general principles of neutrality as sanctioned in paragraphs 5 and 6 of the preamble to the 13th convention of The Hague concerning maritime neutrality. Moreover the result would be contrary to the stipulations of the 7th convention of The Hague concerning the transformation of merchant vessels into war ships. Finally if armed merchant vessels were to be treated as auxiliary cruisers, they would possess the right of making prizes, and this would mean the revival of privateering.

Informal letter from the Secretary of State to the British Ambassador.[1]

DEPARTMENT OF STATE,
Washington, April 7, 1916.

MY DEAR MR. AMBASSADOR: I have received your courteous letter of the 22d ultimo and given careful consideration to the Memorandum enclosed relating to the proposal for an agreement to disarm merchant vessels by the Entente Powers, which I unofficially submitted to you in my letter of January 18, 1916.

The proposal was made with the humane purpose of removing the principal reason given by the German and Austro-Hungarian Governments for the failure of their submarines to comply strictly with the rules of naval warfare in intercepting the merchant vessels of their enemies on the high seas, a practice which has resulted in an appalling loss of life among the passengers and crews of vessels which have been attacked without warning.

Believing that an arrangement, such as I had the honor to propose, would have resulted in the discontinuance by Germany and Austria-Hungary of a method of attack on merchant vessels which puts in jeopardy the lives of hundreds of men, women and children of neutral

[1] Same, *mutatis mutandis*, to the Ambassador of France, the Russian Ambassador, the Ambassador of Italy, the Belgian Minister, and, on June 1, 1916, to the Japanese Ambassador.

as well as belligerent nationality, I can not but regret that the Governments of the Entente Powers could not see their way to accede to the proposal.

The Entente Governments having, however, reached a decision to decline the proposed arrangement, it becomes my duty to accept their decision as final, and in the spirit in which they have made it.

I am, etc., ROBERT LANSING.

Ambassador Gerard to the Secretary of State.

No. 2880] AMERICAN EMBASSY,
Berlin, April 11, 1916.

SIR: I have the honor to transmit herewith to the Department a copy and translation of a Note Verbale, dated April 11, 1916, received from the Imperial Foreign Office, enclosing a copy of an official order said to have been issued by the English Admiralty for armed English merchant vessels for the event of meeting submarines, which order was found on the English steamer *Appam* brought in as a prize by the German ship *Moewe*.

The substance of this Note is to-day being cabled to the Department.

I am, etc., For the Ambassador
J. C. GREW.

[Inclosure—Translation.]

No. III a 6499. FOREIGN OFFICE,
69362. *Berlin, April 11, 1916.*

NOTE VERBALE.

The Foreign Office has the honor to transmit herewith to the Embassy of the United States of America a copy of an official order issued by the English Admiralty for armed English merchant vessels for the event of meeting submarines. The order was found on board the English steamer "*Appam*," brought in as a prize by His Majesty's Ship "*Moewe*."

It is evident from this official order also that the English merchant vessels are to proceed aggressively against any submarine which comes in sight; it is therefore likewise in conflict with the assertion of the British Government that English merchant vessels are only armed for defence.

The Foreign Office begs to request the Embassy to acquaint its Government of the above.

[Subinclosure.]

Any submarine approaching a merchant vessel may be treated as hostile. Gunfire from the latest submarines is effective in fine weather and at close range. If chased by submarine armed with gun, first attempt to escape; if this proves impossible, turn and steer straight for submarine before she gets close enough to use her guns effectively. It is believed that German submarine must get into a position nearly end on in order to fire a torpedo. In submarine waters all ships should proceed at utmost speed; fast ships whose speed exceeds ten knots should zigzag, course being altered at short and irregular intervals unless proximity of other vessels makes this unsafe for navigation. Under water speed of submarine is low and zigzaging makes it difficult for it to get into position to deliver surprise attack. Wireless warnings sent out from Saintjust and Valencia at three and nine a. m. and p. m. in M. V. Code will tell you where submarines are active, but should necessity arise warnings may be sent at any time. German submarines are fitted with wireless. No wireless signals except in emergency are allowed within 100 miles from British coast.

Most important to make landfall after dark and when position is verified give coast a wide berth. Submarines can operate as surface boats at night; all unnecessary lights therefore increase the danger. The presence of a ship may be disclosed to a submarine by the undue use of a siren.

Instruction from Admiralty Secret.

(Signature illegible.)

13. 6. 15.

Informal letter from the Japanese Ambassador to the Secretary of State.

IMPERIAL JAPANESE EMBASSY,
Washington, May 18, 1916.

MY DEAR MR. SECRETARY: In continuation of my note of the 27th of January last,[1] in which I took pleasure to acknowledge receipt of your note of the 24th idem containing a suggestion relating to the question of

[1] Not printed.

submarine warfare and armed merchantmen and to advise you that, in compliance with your request therein, the note had been referred to my Government, I now beg, under instructions from Baron Ishii, to inform you that my Government, finding themselves in complete agreement with the views of the allied governments, regret to be unable to see their way to meeting the suggestion of the Honorable the Secretary of State.

Accept, etc.,

S. CHINDA.

4. STATUS OF BELLIGERENT SUBMARINES IN NEUTRAL WATERS.

Memorandum from the French Embassy.[1]

[Translation.]

FRENCH EMBASSY,
Washington, August 21, 1916.

MEMORANDUM.

In the presence of the development of submarine navigation, under existing circumstances and by reason of what may unfortunately be expected from enemy submarines, the Allied Governments deem it necessary, in order to protect their belligerent rights and the freedom of commercial navigation, as well as to remove chances of conflict, to exhort the neutral Governments, if they have not already done so, to take efficacious measures tending to prevent belligerent submarines, regardless of their use, to avail themselves of neutral waters, roadsteads, and harbors.

In the case of submarines the application of the principles of international law offers features that are as peculiar as they are novel, by reason, on the one hand, of the facility possessed by such craft to navigate and sojourn in the seas while submerged and thus escape any supervision or surveillance, and, on the other hand, of the impossibility to identify them and determine their national character, whether neutral or belligerent, combatant or innocent, and to put out of consideration the power to do injury that is inherent in their very nature.

It may be said, lastly, that any submarine war vessel far away from its base, having at its disposal a place where it can rest and replenish its supplies, is afforded, by mere rest obtained, so many additional facilities that the advantages it derives therefrom turn that place into a veritable basis of naval operations.

In view of the present condition of things the Allied Governments hold that—

[1] Identic memoranda were received from the embassies of Italy, dated Aug. 21; Great Britain, dated Aug. 22; Russia, dated Aug. 26; Japan, dated Aug. 28; and from the Portuguese Legation, dated Aug. 30, 1916.

Submarine vessels must be excluded from the benefit of the rules heretofore accepted in international law regarding the admission and sojourn of war and merchant vessels in the neutral waters, roadsteads, and harbors; any submarine of the belligerents that once enters a neutral harbor must be held there.

The Allied Governments take this opportunity to warn the neutral Powers of the great danger to neutral submarines attending the navigation of waters visited by the submarines of belligerents.

Memorandum to the French Embassy.[1]

DEPARTMENT OF STATE,
Washington, August 31, 1916.

MEMORANDUM.

The Government of the United States has received the identic memoranda of the Governments of France, Great Britain, Russia, and Japan in which neutral Governments are exhorted "to take efficacious measures tending to prevent belligerent submarines, regardless of their use, to avail themselves of neutral waters, roadsteads, and harbors." These Governments point out the facility possessed by such craft to avoid supervision or surveillance or determination of their national character and their power "to do injury that is inherent in their very nature," as well as the "additional facilities" afforded by having at their disposal places where they can rest and replenish their supplies. Apparently on these grounds the Allied Governments hold that "Submarine vessels must be excluded from the benefit of the rules heretofore accepted under international law regarding the admission and sojourn of war and merchant vessels in neutral waters, roadsteads, or harbors; any submarine of a belligerent that once enters a neutral harbor must be held there," and, therefore, the Allied Governments "warn neutral powers of the great danger to neutral submarines attending the navigation of waters visited by the submarines of belligerents."

In reply the Government of the United States must express its surprise that there appears to be an endeavor of the Allied Powers to determine the rule of action governing what they regard as a "novel situation" in respect to the use of submarines in time of war and to

[1] Same to the embassies of Great Britain, Russia, and Japan, and, *mutatis mutandis*, to the Italian Embassy, Sept. 8, 1916, and to the Portuguese Legation, Sept. 13, 1916.

enforce acceptance of that rule, at least in part, by warning neutral powers of the great danger to their submarines in waters that may be visited by belligerent submarines. In the opinion of the Government of the United States the Allied Powers have not set forth any circumstances, nor is the Government of the United States at present aware of any circumstances, concerning the use of war or merchant submarines which would render the existing rules of international law inapplicable to them. In view of this fact and of the notice and warning of the Allied Powers announced in their memoranda under acknowledgment it is incumbent upon the Government of the United States to notify the Governments of France, Great Britain, Russia, and Japan that, so far as the treatment of either war or merchant submarines in American waters is concerned, the Government of the United States reserves its liberty of action in all respects and will treat such vessels as, in its opinion, becomes the action of a power which may be said to have taken the first steps toward establishing the principles of neutrality and which for over a century has maintained those principles in the traditional spirit and with the high sense of impartiality in which they were conceived.

In order, however, that there should be no misunderstanding as to the attitude of the United States, the Government of the United States announces to the Allied Powers that it holds it to be the duty of belligerent powers to distinguish between submarines of neutral and belligerent nationality, and that responsibility for any conflict that may arise between belligerent warships and neutral submarines on account of the neglect of a belligerent to so distinguish between these classes of submarines must rest entirely upon the negligent power.

Part V.

DESTRUCTION OF AMERICAN MERCHANTMAN WILLIAM P. FRYE BY THE GERMAN SHIP PRINZ EITEL FRIEDRICH.

(Continuation of correspondence printed in Special Supplement, July, 1915, pp. 180–193.)

Ambassador Gerard to the Secretary of State.

[Telegram.]

American Embassy,
Berlin, September 20, 1915.

Following note received from the Foreign Office to-day:

Foreign Office,
Berlin, September 19, 1915.

The undersigned has the honor to make the following reply to the note of His Excellency, Mr. James W. Gerard, Ambassador of the United States of America, dated 13th ultimo, on the subject of the claim for reparation for the sinking of the American merchantman *William P. Frye.*

With regard first to the ascertainment of the damages by experts the German Government believes that it should dispense with the nomination of an umpire. In the cases of the ascertainment of damages hitherto arranged between the German Government and a neutral Government from similar causes the experts named by the two parties have always reached an agreement as to the amount of the damage without difficulty; should it not be possible, however, to reach an agreement on some point, it could probably be settled by diplomatic negotiation. Assuming that the American Government agrees to this, the German Government names as its expert Doctor Kepny, of Bremen, director of the North German Lloyds; it begs to await the designation of the American expert.

The German Government declares that it agrees to the proposal of the American Government to separate the question of indemnity from the question of the interpretation of the Prussian-American treaties of 1785, 1799, and 1828. It therefore again expressly states that in making payment it does not acknowledge the violation of the treaty as contended by the American side, but it will admit that the settlement of

the question of indemnity does not prejudice the arrangement of the difference of opinion concerning the interpretation of the treaty rights, and that this dispute is left to be decided by The Hague tribunal of arbitration.

The negotiations relative to the signing of the *compromis* provided by Article 52 of The Hague Arbitration Convention would best be conducted between the Foreign Office and the American Embassy in Berlin in view of the difficulties in the way of instructing the Imperial Ambassador at Washington. In case the American Government agrees, the Foreign Office is prepared to submit to the Embassy a draft of such a *compromis*.

The American Government's inquiry whether the German Government will govern its naval operations in accordance with the German or American interpretation of the treaty stipulations in question pending the arbitral proceedings has been carefully considered by German Government. From the standpoint of law and equity it is not prevented in its opinion from proceeding against American ships carrying contraband according to its interpretation until the question is settled by arbitration. For the German Government does not need to depart from the application of generally recognized rules of the law of maritime war, as the Declaration of London, unless and in so far as an exception based on a treaty, is established beyond all doubt; in the case of the present difference of opinion between the German and the American Governments such an exception could not be taken to be established except on the ground of the arbitral award. Moreover, the disadvantages to Germany which would ensue from the American interpretation of the treaty stipulations would be so much greater as to be out of proportion to those which the German interpretation would entail for the United States. For whereas the American interpretation would materially impede Germany in her conduct of warfare, hardly any particular disadvantage to American citizens would result from the German interpretation, since they receive full reparation for any property damage sustained.

Nevertheless the German Government, in order to furnish to the American Government evidence of its conciliatory attitude, has issued orders to the German naval forces not to destroy American merchantmen which have loaded conditional contraband, even when the conditions of international law are present, but to permit them to continue their voyage unhindered if it is not possible to take them into port. On the other hand, it must reserve to itself the right to destroy vessels carrying absolute contraband wherever such destruction is permissible according to the provisions of the Declaration of London.

The undersigned begs to suggest that the Ambassador bring the above to the knowledge of his Government, and avails himself of the opportunity to renew, etc.

VON JAGOW.
GERARD.

The Secretary of State to Ambassador Gerard.

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 12, 1915.

You are instructed to present the following note to the German Minister of Foreign Affairs:

In reply to Your Excellency's note of September 19, on the subject of the claim for damages for the sinking of the American merchantman *William P. Frye,* I am instructed by the Government of the United States to say that it notes with satisfaction the willingness of the Imperial German Government to settle the questions at issue in this case by referring to a joint commission of experts the amount of the indemnity to be paid by the Imperial German Government under its admitted liability for the losses of the owners and captain on account of the destruction of the vessel, and by referring to arbitration the question of the interpretation of treaty rights. The Government of the United States further notes that in agreeing to this arrangement the Imperial German Government expressly states that in making payment it does not acknowledge the violation of the treaty as contended by the Government of the United States, and that the settlement of the question of indemnity does not prejudice the arrangement of the differences of opinion between the two governments concerning the interpretation of the treaty rights. The Government of the United States understands that this arrangement will also be without prejudice to its own contention in accordance with the statement of its position in its note of August 10 last to Your Excellency on this subject, and the Government of the United States agrees to this arrangement on that understanding. Your Excellency states that the Imperial German Government believes that the nomination of an umpire should be dispensed with, because it has been the experience of the Imperial German Government that the experts named in such cases have always reached an agreement without difficulty, and that should they disagree on some point, it could probably be settled by diplomatic negotiation. The Government of the United States entirely concurs in the view that it is not necessary to nominate an umpire in advance. It is not to be assumed that the experts will be unable to agree, or that if they are, the point in dispute can not be settled by diplomatic negotiation, but the Government of the United States believes that in agreeing to this arrangement it should be understood in advance that in case the amount of indemnity is not settled by the joint commission of experts or by diplomatic negotiation, the question will then be referred to an umpire if that is desired by the Government of the United States.

Assuming that this understanding is acceptable to the German Gov-

ernment, it will only remain for the Government of the United States to nominate its expert to act with the expert already nominated by the German Government on the joint commission. It seems desirable to the Government of the United States that this joint commission of experts should meet without delay as soon as the American member is named and that its meetings should be held in the United States, because, as pointed out in my note to you of April 30 last, any evidence which the German Government may wish to have produced is more acceptable and can more conveniently be examined there than elsewhere.

With reference to the agreement to submit to arbitration the question of treaty interpretation, the Government of the United States notes that in answer to its inquiry whether, pending the arbitral proceedings, the German Government will govern its naval operations in accordance with the German or American interpretation of the treaty stipulations in question, the reply of the German Government is that it "has issued orders to the German naval forces not to destroy American merchantmen which have loaded conditional contraband even when the conditions of international law are present, but to permit them to continue their voyage unhindered if it is not possible to take them into port," and that "on the other hand it must reserve to itself the right to destroy vessels carrying absolute contraband whenever such destruction is permissible according to the provisions of the Declaration of London."

Without admitting that the Declaration of London is in force, and on the understanding that the requirement in article 50 of the Declaration that "before the vessel is destroyed all persons on board must be placed in safety" is not satisfied by merely giving them an opportunity to escape in lifeboats, the Government of the United States is willing, pending the arbitral award in this case, to accept the Declaration of London as the rule governing the conduct of the German Government in relation to the treatment of American vessels carrying cargoes of absolute contraband. On this understanding the Government of the United States agrees to refer to arbitration this question of treaty interpretation.

The Government of the United States concurs in the desire of the Imperial German Government that the negotiations relative to the signing of the compromise referring this question of treaty interpretation to arbitration under the provisions of Article 52 of The Hague Arbitration Convention, should be conducted between the German Foreign Office and the American Embassy in Berlin, and the Government of the United States will be glad to receive the draft compromise, which you inform me the Foreign Office is prepared to submit to the American Ambassador in Berlin. Anticipating that it may be convenient for the Imperial German Government to know in advance of these negotiations the preference of the Government of the United States as to the form of arbitration to be arranged for in the compromise, my Government desires me to say that it would prefer, if agreeable to

the Imperial Government, that the arbitration should be by summary procedure, based upon the provisions of Articles 86 to 90, inclusive, of The Hague Arbitration Convention, rather than the longer form of arbitration before the Permanent Court at The Hague.

Arrange for simultaneous publication of this note at earliest date which will give you time to notify the Department.

LANSING.

Ambassador Gerard to the Secretary of State.

No. 1964.] AMERICAN EMBASSY,
Berlin, December 2, 1915.

SIR: With reference to my telegram of even date [1] and to previous correspondence on the subject of the claim for damages for the sinking of the American merchantman *William P. Frye*, I have the honor to transmit to you herewith a copy and translation of a note received from the Imperial Foreign Office, dated November 29, 1915, which replies to a note which I addressed to the Imperial Foreign Office on October 14, 1915, pursuant to the instructions contained in your telegram No. 2291, of October 12, 1915.

A copy and translation of the draft of a *compromis* submitted by the Imperial German Government is likewise transmitted herewith.

I have, etc.,

GERARD.

[Inclosure—Translation.]

The German Minister for Foreign Affairs to Ambassador Gerard.

BERLIN, *November 29, 1915.*

The undersigned has the honor to inform His Excellency, Mr. James W. Gerard, Ambassador of the United States of America, in reply to the note of October 14, F. O. No. 5671, relative to indemnity for the sinking of the American merchant vessel *William P. Frye*, as well as to the settlement by arbitration of the difference of opinion which has arisen on this occasion, as follows:

With regard first to the ascertainment of indemnity for the vessel sunk, the German Government is in agreement with the American Government

[1] Not printed.

in principle that the amount of damages be fixed by two experts, one each to be nominated by the German and the American Governments. The German Government regrets that it can not comply with the wish of the American Government to have the experts meet in Washington, since the expert nominated by it, Dr. Greve, of Bremen, director of the North German Lloyd, is unable to get away from here, and furthermore would be exposed to the danger of capture during a voyage to America in consequence of the conduct of maritime war by England contrary to international law. Should the American expert likewise be unable to get away, the two experts might perhaps get in touch with each other by correspondence.

The German Government likewise regrets that it can not assent at this time to the nomination of an umpire as desired by the American Government, for apart from the fact that in all probability the experts will reach an agreement in the case of the *William P. Frye* with the same facility as was the case with similar negotiations with other neutral Governments, the assent of the German Government to the consultation of an umpire would depend materially upon whether the differences of opinion between the two experts pertained to questions of principle or merely to the appraisement of certain articles. The consultation of an umpire could only be considered at all in the case of appraisements of this nature.

Should the American Government insist on its demands for the meeting of the experts at Washington or the early choice of an umpire, the only alternative would be to arrange the fixing of damages by diplomatic negotiation. In such an event the German Government begs to await the transmission of a statement of particulars of the various claims for damages accompanied by the necessary proofs.

With regard to the arbitral treatment of the difference of opinion relative to the interpretation of certain stipulations of the Prussian-American commercial treaties, the German Government has drawn up the inclosed draft of a *compromis*, which would have to be worded in the German and English languages and drawn up with due consideration of the two alternating texts. It is true that the draft does not accommodate the suggestions of the American Government so far as it is not in accordance with the rules of summary procedure provided by chapter 4 of The Hague Arbitration Convention, but with the rules of regular procedure. The Summary procedure is naturally intended only for differences of opinion of inferior importance, whereas the German Govern-

ment attaches very particular importance to the interpretation of the Prussian-American treaties which have existed for over 100 years. Pursuant to the agreement made, any proposed amendments would have to be discussed between the Foreign Office and the American Embassy, and oral discussions would appear to be advisable.

Until the decision of the permanent court of arbitration, the German naval forces will sink only such American vessels as are loaded with absolute contraband, when the preconditions provided by the Declaration of London are present. In this the German Government quite shares the view of the American Government that all possible care must be taken for the security of the crew and passengers of a vessel to be sunk. Consequently, the persons found on board of a vessel may not be ordered into her lifeboats except when the general conditions, that is to say, the weather, the condition of the sea, and the neighborhood of the coasts afford absolute certainty that the boats will reach the nearest port. For the rest the German Government begs to point out that in cases where German naval forces have sunk neutral vessels for carrying contraband, no loss of life has yet occurred.

The undersigned begs to give expression to the hope that it will be possible for the two Governments to reach a complete understanding regarding the case of the *William P. Frye* on the above basis, and avails himself of this opportunity to renew to His Excellency, the Ambassador, the assurance of his highest consideration.

VON JAGOW.

[Translation.]

ARBITRATION COMPROMIS.

The Imperial German Government and the Government of the United States of America having reached an agreement to submit to a court of arbitration the difference of opinion which has arisen, occasioned by the sinking of the American merchant vessel *William P. Frye* by a German warship, in respect of the interpretation of certain stipulations of the Prussian-American treaties of amity and commerce, the undersigned, duly authorized for this purpose, have agreed to the following *compromis:*

ARTICLE I.

A court of arbitration composed in accordance with the following stipulations is charged with the decision of the legal question:

Whether according to the treaties existing between the parties, in par-

ticular Article XIII of the Prussian-American treaty of amity and commerce of July 11, 1799, the belligerent contracting party is prevented from sinking merchant vessels of the neutral contracting party for carrying contraband when such sinking is permissible according to general principles of international law.

Article II.

The court of arbitration shall be composed of five arbitrators to be chosen among the members of the permanent tribunal of arbitration at The Hague.

Each government will choose two arbitrators, of whom only one may be a national of such country, as soon as possible, at the latest within two weeks from the day this *compromis* is signed. The four arbitrators thus nominated shall choose an umpire within four weeks after they have been notified of their nomination; in case of an equal vote the president of the Swiss federal council shall be requested to select the umpire.

Article III.

On March 1, 1916, each party shall transmit to the bureau of the permanent tribunal of arbitration 18 copies of its argument with authenticated copies of all documents and correspondence on which it intends to rely in the case. The bureau will arrange without delay for the transmission to the arbitrators and to the parties, each arbitrator to receive two copies, each party three copies. Two copies shall remain in the archives of the bureau.

On May 1, 1916, the parties shall deposit their countercases with the supporting evidence and their statements in conclusion.

Article IV.

Each party shall deposit with the international bureau at the latest on March 1, 1916, the sum of 3,000 gulden of The Netherlands toward the costs of the arbitral procedure.

Article V.

The court of arbitration shall meet at The Hague on June 15, 1916, and proceed immediately to examine the dispute.

ARTICLE VI.

The parties may make use of the German or the English language.

The members of the court may use the German or the English language as they may choose. The decisions of the court shall be written in both languages.

ARTICLE VII.

Each party shall be represented by a special agent whose duty shall be to act as an intermediary between the party and the court. These agents shall furnish the court any explanations which the court may demand of them; they may submit any legal arguments which they may consider advisable for the defense of their case.

ARTICLE VIII.

The stipulations of the convention of October 18, 1907, for the pacific settlement of international disputes, shall be applied to this arbitral procedure, in so far as nothing to the contrary is provided by the above *compromis*.

Done in duplicate at Berlin on the —— day of ——

Part VI.

EXPORTATION OF ARMS AND MUNITIONS OF WAR

(Continuation of correspondence printed in Special Supplement, July, 1915, pp. 125–129, 146, 166–172.)

Austro-Hungarian Minister for Foreign Affairs to Ambassador Penfield.

No. 88855.] Imperial and Royal Ministry of Foreign Affairs,
Vienna, September 24, 1915.

The undersigned had the honor of receiving the much esteemed note of August 16 of this year, No. 2758, in which His Excellency the Ambassador Extraordinary and Plenipotentiary of the United States of America, Mr. Frederic Courtland Penfield, was good enough to define the position taken by the Government of the United States with respect to the standpoint represented by the Imperial and Royal Government in the question of the delivery of war requisites to Great Britain and her allies.

The representations which the Washington Cabinet have devoted to this question disclose the various points of view which are controlling for the Government of the United States in this matter, and which according to their opinion prevent them from accommodating themselves to the views of the Imperial and Royal Government. Much as the Imperial and Royal Government have endeavored to thoroughly examine the points which were presented as pertinent by the Washington Cabinet, the most careful weighing and evaluation thereof can not induce them to deviate from the standpoint set forth in their note of June 29 of this year, No. 59465.

The arguments of the Government of the Union are for a great part based upon the incorrect assumption that the Imperial and Royal Government had in any way contested the right which Article 7 of the Seventh and Thirteenth Hague Conventions accords to the subjects of neutral powers to supply belligerents with contraband, whereas the

above-mentioned note of the Imperial and Royal Government expressly stated that the text—but only the text—of the provision referred to affords the Government of the Union with a formal pretext for tolerating the traffic in munitions of war in which its citizens are at present engaged. It is a matter of course that the Imperial and Royal Government did not remotely expect a deviation from an effective treaty on the part of the Washington Cabinet; they merely pointed out that, according to their opinion, that provision should not be interpreted in a manner which would be at variance with the fundamental conception and the highest principles of the law of neutrality. It is true that from the progressive codification of international law there arises the danger that the principles of law laid down in written agreements be regarded as the essence of international law and in this way its most general fundamental conceptions, in so far as they have not been expressly fixed in state treaties, be overlooked.

However, this possibility should be prevented with particular reference to matters of the law of neutrality, and in this sense it appears to be emphasized in the preamble to the Thirteenth Hague Convention (paragraphs 2 and 3) that the stipulations of this convention represent only fragments, which can not cover all circumstances which may arise in practice and which find their corrective and supplement in the general principles of international law.

The Imperial and Royal Government then focused their statement in this matter upon the special problem of whether the cited treaty provision does not find its limitation in these principles; and in appealing to the opinion of science in their affirmation of the question they had in mind and could only have had in mind those authorities which inquire especially whether the otherwise permissible exportation of war requisites does not under certain circumstances involve a compromise of neutrality. In no place in the note of June 29 of this year is an assertion to be found to the effect that writers are unanimously of the view that the exportation of contraband is contrary to neutrality.

Further, the Imperial and Royal Government have in no way advocated a principle of "equalization." As a matter of fact they did not base their suggestion in the question of the exportation of war requisites upon the fact that they are not themselves in a position to draw munitions of war from the United States of America; they are indeed of the opinion that the excessive exportation of war requisites would not be permissible even if it were taking place to the countries of both bellig-

erent parties. It has never occurred to the Imperial and Royal Government that it is obligatory upon a neutral Power to equalize the disadvantage at which Austria-Hungary finds itself in not being able to draw munitions of war from the neutral territory by forbidding its subjects traffic in such objects with the enemies of the Monarchy. They only objected that the economic life of the United States had been made serviceable to the greatest extent by the creation of new and the enlargement of existing concerns for the manufacture and exportation of war requisites and thus, so to say, been militarized, if it be permitted to use here this much misused word.

But in the concentration of so many forces to the one end, the delivery of war requisites, which, although not so intended, actually result in an effective support of one of the belligerent parties, which appears all the more surprising when such articles as are not even contraband are not being supplied from the United States to the other belligerent party, lies a "fait nouveau," which weakens reference to supposed precedents in other wars. The parallel with former wars fails particularly as these were always wars between two individual Powers or wars between groups constituted of fewer Powers. Under this condition it was possible that if war supplies were delivered from a neutral country to only one belligerent party, the opponent could turn to other neutrals. But in the present war the United States is the only Power which can be reasonably considered in connection with such deliveries. For this reason the exportation of war requisites from the Union, as it is now being carried on, acquires quite another significance than that which the exportation of contraband could ever before have had. As all of these decisive points appeared in their full import only during the course of the war, the Austro-Hungarian Government consider themselves justified in the view that, in the sense of the last paragraph of the preamble to the Thirteenth Hague Convention, these points contain sufficient grounds for changing the practice hitherto adhered to by the United States. Complete and strict impartiality, such as is being aimed at by the Washington Cabinet, and thus abstention from every direct or indirect support or assistance of a belligerent party, doubtlessly appertains to the rights of a neutral state. If experience shows that an embargo of any character whatsoever becomes necessary for this purpose during the course of a war, this Power is justified in changing its previous neutrality practice.

On the other hand, the present case, which differs so completely from

all former cases, represents a "fait nouveau," which as already intimated, does not fall under the cited Article 7 and therefore can not be regarded otherwise than "an inforeseen case," which, in the sense of the preamble to the thirteenth convention (Par. 3) must be dealt with according to the general principles of international law, as has been set forth above.

Nor did the suggestion made by the Imperial and Royal Government with respect to the importation of foodstuffs and raw materials proceed from the idea that a neutral Government is bound to compensate for the advantages attained by one belligerent party over another by a system of non-intercourse with the former. As may be seen from the note of June 29 of this year, the aforesaid suggestion had merely the purpose of representing to the Washington Cabinet, which had presented the argument that, in consequence of the war situation, it was impossible for the United States to carry on commerce with the Central Powers, that it lay within the power of the Government of the Union to open up the possibility of doing so. In fact it is not the maritime successes of Great Britain and her allies which caused the cessation of trade between America and Austria-Hungary, at least as far as non-contraband goods are concerned, but the illegal measures adopted by the Entente Powers, which, as is not unknown to the Imperial and Royal Government, are also regarded as illegal by the Government of the Union.

The Imperial and Royal Government do not indeed deny that, if the Washington Cabinet should accommodate themselves to the Austro-Hungarian view, the position of the United States of America toward the two belligerent parties in the domain of commerce would be less unequal than is at present the case. But it appears to the Imperial and Royal Government that an argument against a suggestion which is perhaps otherwise recognized by a neutral Power as justifiable from a standpoint of neutrality is all the less to be deduced from the foregoing, since even according to the view of the Washington Cabinet, it is certainly not the task of a neutral State to shape its position as unequally as possible to the two belligerent parties or, in case such an inequality exists, not to disturb it under any circumstances.

As opposed to the assumption of the Government of the Union that, in the opinion of the Imperial and Royal Government, the exportation of arms and ammunition conflicted with the last paragraph of the preamble to the thirteenth convention, it may be emphasized that the Imperial and Royal Government based their position against the expor-

tation of war requisities, as represented above, on paragraphs 2 and 3 of the preamble. The appeal to the latter paragraph was intended to be in connection with the question of the illegitimate exclusion of Austria-Hungary from the American market and was for the purpose of showing that for this very reason the Government of the Union would be justified in issuing an embargo by legislative means.

If the Government of the United States, as it would appear, mean to express the view that the Government of a belligerent Power are not warranted in speaking in matters of the preservation or exercise of a right of a neutral state, this is perhaps to be explained by the fact that the Washington Cabinet gave a too restrictive interpretation to the last-mentioned paragraph, to the effect that this paragraph refers only to strictly personal rights, the protection of which even in the opinion of the Imperial and Royal Government must naturally be left to the discretion of the neutral state.

The aforesaid paragraph, however, as is clear from the report which the French delegate, M. Renault, made to the Committee of the Whole at the Hague Conference upon the thirteenth convention (Second International Peace Conference, Acts and Documents, Volume 1, page 326) has in view the case of the observance of neutrality, and therefore the privilege of approaching a neutral government with appeal to the said passage can not be denied to a belligerent, in case the question of the protection of the rights of a neutral state touches upon the sphere of rights of the belligerent.

The Imperial and Royal Government have followed with keen interest the representations of the Government of the Union, wherein the points of view which make it imperative for the Washington Cabinet to place no restrictions upon the exportation of war material during the present war are set forth; however, they do not abandon the hope of meeting the approval of the Government of the Union in remarking that these points of view of a purely practical nature do not influence the legal aspect of the case, and it must remain uninvestigated by us whether the fact that the manufacturer of requisites of war in the United States could assume such large dimensions would not rather justify the conclusion that the United States, where all requisites for this production, *viz*, manual labor, natural resources, and capital exist in abundance, would not be dependent upon drawing war material from abroad, in case it should have to conduct a war of its own, in which their own cause would increase the energy of its citizens.

The Imperial and Royal Government particularly beg to add the following:

In citing the precedents appealed to by the Washington Cabinet, which, as already mentioned, can not, however, be recognized as such, the Government of the Union emphasize the example of the Boer War, during which a commercial isolation of one of the belligerent parties analogous to that in the present war occurred. In truth such an analogy can scarcely be recognized, because at that time Great Britain had not proclaimed a prohibition of trade, such as that presented by the present illegal measures of the London Cabinet, and because a commercial isolation certainly can not be seen in the prevention of the importation of arms and ammunitions, as mentioned by the Government of the Union, to say nothing of the fact that the exportation of war material from Austria-Hungary in the Boer War, just as in other wars in which such exportation took place at all, the bounds of reasonableness were never overstepped.

As to the reference of the Washington Cabinet to the German authority, the ground has been cut from under it and the conclusions derived therefrom by the fact that, as in the meantime must have become known to the Government of the Union, Mr. Einicke has publicly protested against the use of a passage of his treatise on neutrality in maritime warfare in support of the attitude of the Washington Cabinet. Moreover, the Imperial and Royal Government regard it as a matter of course that a neutral state must not proclaim an embargo with the intention of injuring one of the belligerent parties. It is equally a matter of course that it can never be asserted of an embargo which a state has proclaimed for the maintenance of its neutrality that this was done with a view of injuring one of the belligerent parties.

Finally, the observations of the Government of the Union dealing with the provisioning of vessels of war are apparently based upon a misunderstanding. In mentioning the prohibition of the delivery of vessels of war and the prohibition of certain deliveries to vessels of war the Imperial and Royal Government had no concrete case in view, but rather the prohibition expressed in Articles 8, 19, and 20 of the Thirteenth Hague Convention.

The undersigned has the honor to appeal to the kindness of His Excellency the American Ambassador with the most respectful request that he be good enough to communicate to the Washington Cabinet by telegraph the foregoing friendly arguments, which are merely intended

as a final supplement to the statement of the legal aspect of the matter as defined in the note of June 29 of this year with regard to the points set forth by the Government of the Union, and at the same time the undersigned avails himself, etc.

BURIAN.

Part VII.

RECALL OF DR. CONSTANTIN THEODOR DUMBA, AUSTRO-HUNGARIAN AMBASSADOR AT WASHINGTON.

The Secretary of State to Ambassador Penfield.

[Telegram.]

Department of State,
Washington, September 8, 1915.

You are instructed to present immediately the following in a note to the Foreign Office:

Mr. Constantin Dumba, the Austro-Hungarian Ambassador at Washington, has admitted that he proposed to his Government plans to instigate strikes in American manufacturing plants engaged in the production of munitions of war. The information reached this Government through a copy of a letter of the Ambassador to his Government. The bearer was an American citizen named Archibald, who was traveling under an American passport. The Ambassador has admitted that he employed Archibald to bear official despatches from him to his Government.

By reason of the admitted purpose and intent of Mr. Dumba to conspire to cripple legitimate industries of the people of the United States and to interrupt their legitimate trade, and by reason of the flagrant violation of diplomatic propriety in employing an American citizen protected by an American passport as a secret bearer of official despatches through the lines of the enemy of Austria-Hungary, the President directs me to inform your Excellency that Mr. Dumba is no longer acceptable to the Government of the United States as the Ambassador of His Imperial Majesty at Washington.

Believing that the Imperial and Royal Government will realize that the Government of the United States has no alternative but to request the recall of Mr. Dumba on account of his improper conduct, the Government of the United States expresses its deep regret that this course has become necessary and assures the Imperial and Royal Govern-

ment that it sincerely desires to continue the cordial and friendly relations which exist between the United States and Austria-Hungary.

LANSING.

Ambassador Penfield to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Vienna, September 30, 1915.

Ambassador Penfield reports receipt of a note from the Minister for Foreign Affairs of Austria-Hungary replying to the Department's note of September 8, 1915.

The Austro-Hungarian Minister for Foreign Affairs states that he has learned that Mr. Dumba is no longer acceptable to the United States Government as Austro-Hungarian Ambassador, and inasmuch as cognizance of this information has been taken by the Austro-Hungarian Minister for Foreign Affairs, he has no doubt as to the conclusions to be drawn therefrom regarding Mr. Dumba's retention as Austro-Hungarian Ambassador in Washington. However, the Austro-Hungarian Minister for Foreign Affairs can not refrain from expressing the opinion that correspondence of a diplomatic character, especially between a Government and its Ambassador, regardless of the manner of transmission, should not, as has been the case in the department's note referred to, be made the subject of an official criticism from a Government to whose attention this correspondence could come only by an accident, and for which it was not intended. The sincere desire expressed by the United States Government that the relations between the two Governments should, as heretofore, still retain their friendly and cordial character, is likewise entertained by the Austro-Hungarian Minister for Foreign Affairs, and he avails himself of this opportunity to renew, etc.

Part VIII.

RECALL OF CAPTAIN VON PAPEN, MILITARY ATTACHÉ, AND CAPTAIN BOY-ED, NAVAL ATTACHÉ, OF THE GERMAN EMBASSY AT WASHINGTON.

The Secretary of State to the German Ambassador.

No. 1686.] Department of State,
Washington, December 4, 1915.

Excellency: Confirming my conversation with you on December first, I have the honor to state that various facts and circumstances having come to the knowledge of the Government of the United States as to the connection of Captain Boy-Ed, Naval Attaché, and Captain von Papen, Military Attaché, of the Imperial German Embassy, with the illegal and questionable acts of certain persons within the United States, the President reached the conviction that the continued presence of these gentlemen as Attachés of the Embassy would no longer serve the purpose of their mission, and would be unacceptable to this Government.

The President, therefore, directed me to notify Your Excellency, as I did orally, that Captain Boy-Ed and Captain von Papen are no longer acceptable to the Government of the United States as Attachés of His Imperial Majesty's Embassy at Washington, and to request that your Excellency's Government withdraw them immediately from their official connection with the Imperial German Embassy.

As I informed you at the time of our interview, the Government of the United States deeply regrets that this action has become necessary and believes that the Imperial Government will realize that this Government has, in view of all the circumstances, no alternative course consistent with the interests of the two Governments in their relations with each other.

Accept, etc., Robert Lansing.

The Secretary of State to the German Ambassador.

DEPARTMENT OF STATE,
Washington, December 10, 1915.

MY DEAR MR. AMBASSADOR: On December 1st I informed Your Excellency that Captain Boy-Ed, the Naval Attaché of your Embassy, and Captain von Papen, the Military Attaché, were no longer *personæ gratæ* to my Government and requested that the Imperial Government immediately recall the two attachés.

As ten days have passed without the request of this Government being complied with and without communication from you on the subject other than your personal letter of the 5th instant, which in no way affected the fact that the two attachés were unacceptable or presented a ground for delay, I feel compelled to direct your attention to the expectation of this Government that its request would be immediately granted.

I trust, my dear Mr. Ambassador, that you appreciate the situation and will urge upon your Government a prompt compliance with the request in order that this Government may not be compelled to take action without awaiting the recall of the attachés, an action which this Government does not desire to take but will be forced to take unless the Imperial Government meets the express wish of this Government without further delay. I need not impress upon Your Excellency the desirability of avoiding a circumstance which would increase the embarrassment of the present situation.

I am, etc.,

ROBERT LANSING.

The German Ambassador to the Secretary of State.

[Translation.]

J. Nr. A 8061.] GERMAN EMBASSY,
Washington, December 10, 1915.

MR. SECRETARY OF STATE: In reply to your note No. 1686 of the 4th of this month, I have the honor to inform Your Excellency that his Majesty the Emperor and King has been most graciously pleased to recall the Naval Attaché of the Imperial Embassy, Captain Boy-Ed, and the Military Attaché, Captain von Papen.

I am instructed to beg Your Excellency to obtain for the above-named gentlemen and their servants, Gustav Winkow and Otto Mahlow, a safe conduct for the return trip to Germany from the Powers at war with the German Empire, and also to insure the trip of the successors of those gentlemen to the United States in the event of their being appointed by His Majesty.

Accept, etc., J. BERNSTORFF.

The Secretary of State to the German Ambassador.

DEPARTMENT OF STATE,
Washington, December 11, 1915.

EXCELLENCY: I have the honor to acknowledge the receipt of Your Excellency's note of the 10th instant, notifying me that His Majesty the Emperor and King has been pleased to recall Captain Boy-Ed, the Naval Attaché, and Captain von Papen, the Military Attaché, of the Imperial German Embassy, pursuant to this Government's request of the 4th instant.

In accordance with Your Excellency's wishes, I have had the honor to request of the Powers at war with the German Empire safe conducts for these gentlemen and their servants, Gustav Winkow and Otto Mahlow. Upon the receipt of notice that His Majesty the Emperor and King has designated the successors of these gentlemen, and after the Government of the United States has decided upon their acceptability, it will be my pleasure to request the Powers at war with the German Empire to provide safe conducts for their passage to the United States.

Accept, etc.,

ROBERT LANSING.

The Secretary of State to the German Ambassador.

DEPARTMENT OF STATE,
Washington, December 15, 1915.

MY DEAR MR. AMBASSADOR: I am advised by the British and French Ambassadors that safe conducts will be furnished to Captains Boy-Ed and von Papen for their return to Germany, it being understood that

they will take the southern route to Holland. The Ambassadors request information as to the vessel and date of sailing of the two gentlemen, which I hope you will furnish at your earliest convenience. It is also understood that they will, of course, perform no unneutral act, such as carrying dispatches to the German Government.

I am, etc.,

ROBERT LANSING.

The Secretary of State to the German Ambassador.

DEPARTMENT OF STATE,
Washington, December 18, 1915.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 10th instant, by which I am advised that His Majesty the Emperor has recalled Captain Boy-Ed and Captain von Papen, Naval Attaché and Military Attaché, respectively, of your Embassy, and requested to obtain for these officers a safe conduct for their return trip to Germany.

I did not fail to place myself at once in communication with the British and French Ambassadors on the subject, and I have now the honor to transmit to Your Excellency two authenticated sets of copies of notes from them, which I am assured will be regarded by officers of the Allied cruisers as safe conducts, provided Captain Boy-Ed and Captain von Papen follow the south route via Holland. I further enclose a passport for each of these gentlemen.

Accept, etc.,

ROBERT LANSING.

Part IX.

STATUS OF ARMED MERCHANT VESSELS.

(See correspondence regarding Defensive Armament of Merchant Ships printed in Special Supplement, July, 1915, pp. 222–240, and correspondence regarding Warfare between Submarines and Armed Merchant Vessels, *supra*, pp. 310–341.)

Memorandum on the Status of Armed Merchant Vessels.

Department of State,
Washington, March 25, 1916.

I.

The *status* of an armed merchant vessel of a belligerent is to be considered from two points of view: *First*, from that of a neutral when the vessel enters its ports; and, *second*, from that of an enemy when the vessel is on the high seas.

FIRST.—AN ARMED MERCHANT VESSEL IN NEUTRAL PORTS.

(1) It is necessary for a neutral Government to determine the *status* of an armed merchant vessel of belligerent nationality which enters its jurisdiction, in order that the Government may protect itself from responsibility for the destruction of life and property by permitting its ports to be used as bases of hostile operations by belligerent warships.

(2) If the vessel carries a commission or orders issued by a belligerent Government and directing it under penalty to conduct aggressive operations, or if it is conclusively shown to have conducted such operations, it should be regarded and treated as a warship.

(3) If sufficient evidence is wanting, a neutral Government, in order to safeguard itself from liability for failure to preserve its neutrality, may reasonably presume from the facts the *status* of an armed merchant vessel which frequents its waters. There is no settled rule of international law as to the sufficiency of evidence to establish such a presumption. As a result a neutral Government must decide for itself the suf-

ficiency of the evidence which it requires to determine the character of the vessel. For the guidance of its port officers and other officials a neutral Government may therefore declare a standard of evidence, but such standard may be changed on account of the general conditions of naval warfare or modified on account of the circumstance of a particular case. These changes and modifications may be made at any time during the progress of the war, since the determination of the *status* of an armed merchant vessel in neutral waters may affect the liability of a neutral Government.

SECOND.—AN ARMED MERCHANT VESSEL ON THE HIGH SEAS.

(1) It is necessary for a belligerent warship to determine the *status* of an armed merchant vessel of an enemy encountered on the high seas, since the rights of life and property of belligerents and neutrals on board the vessel may be impaired if its *status* is that of an enemy warship.

(2) The determination of warlike character must rest in no case upon presumption but upon conclusive evidence, because the responsibility for the destruction of life and property depends on the actual facts of the case and can not be avoided or lessened by a standard of evidence which a belligerent may announce as creating a presumption of hostile character. On the other hand, to safeguard himself from possible liability for unwarranted destruction of life and property the belligerent should, in the absence of conclusive evidence, act on the presumption that an armed merchantman is of peaceful character.

(3) A presumption based solely on the presence of an armament on a merchant vessel of an enemy is not a sufficient reason for a belligerent to declare it to be a warship and proceed to attack it without regard to the rights of the persons on board. Conclusive evidence of a purpose to use the armament for aggression is essential. Consequently an armament which a neutral Government, seeking to perform its neutral duties, may presume to be intended for aggression, might in fact on the high seas be used solely for protection. A neutral Government has no opportunity to determine the purpose of an armament on a merchant vessel unless there is evidence in the ship's papers or other proof as to its previous use, so that the Government is justified in substituting an arbitrary rule of presumption in arriving at the *status* of the merchant vessel. On the other hand, a belligerent warship can on the high seas test by actual experience the purpose of an armament on an enemy merchant vessel, and so determine by direct evidence the *status* of the vessel.

SUMMARY.

The *status* of an armed merchant vessel as a warship in neutral waters may be determined, in the absence of documentary proof or conclusive evidence of previous aggressive conduct, by presumption derived from all the circumstances of the case.

The *status* of such vessel as a warship on the high seas must be determined only upon conclusive evidence of aggressive purpose, in the absence of which it is to be presumed that the vessel has a private and peaceable character, and it should be so treated by an enemy warship.

In brief, a neutral Government may proceed upon the presumption that an armed merchant vessel of belligerent nationality is armed for aggression, while a belligerent should proceed on the presumption that the vessel is armed for protection. Both of these presumptions may be overcome by evidence—the first by secondary or collateral evidence, since the fact to be established is negative in character; the second by primary and direct evidence, since the fact to be established is positive in character.

II.

The character of the evidence upon which the *status* of an armed merchant vessel of belligerent nationality is to be determined when visiting neutral waters and when traversing the high seas having been stated, it is important to consider the rights and duties of neutrals and belligerents as affected by the *status* of armed merchant vessels in neutral ports and on the high seas.

FIRST.—THE RELATIONS OF BELLIGERENTS AND NEUTRALS AS AFFECTED BY THE STATUS OF ARMED MERCHANT VESSELS IN NEUTRAL PORTS.

(1) It appears to be the established rule of international law that warships of a belligerent may enter neutral ports and accept limited hospitality there upon condition that they leave, as a rule, within 24 hours after their arrival.

(2) Belligerent warships are also entitled to take on fuel once in three months in ports of a neutral country.

(3) As a mode of enforcing these rules a neutral has the right to cause belligerent warships failing to comply with them, together, with their officers and crews, to be interned during the remainder of the war.

(4) Merchantmen of belligerent nationality, armed only for purposes

of protection against the enemy, are entitled to enter and leave neutral ports without hindrance in the course of legitimate trade.

(5) Armed merchantmen of belligerent nationality under a commission or orders of their Government to use, under penalty, their armament for aggressive purposes, or merchantmen which, without such commission or orders, have used their armaments for aggressive purposes, are not entitled to the same hospitality in neutral ports as peaceable armed merchantmen.

SECOND.—THE RELATIONS OF BELLIGERENTS AND NEUTRALS AS AFFECTED BY THE STATUS OF ARMED MERCHANT VESSELS ON THE HIGH SEAS.

(1) Innocent neutral property on the high seas can not legally be confiscated, but is subject to inspection by a belligerent. Resistance to inspection removes this immunity and subjects the property to condemnation by a prize court, which is charged with the preservation of the legal rights of the owners of neutral property.

(2) Neutral property engaged in contraband trade, breach of blockade, or unneutral service obtains the character of enemy property and is subject to seizure by a belligerent and condemnation by a prize court.

(3) When hostile and innocent property is mixed, as in the case of a neutral ship carrying a cargo which is entirely or partly contraband, this fact can only be determined by inspection. Such innocent property may be of uncertain character, as it has been frequently held that it is more or less contaminated by association with hostile property. For example, under the declaration of London (which, so far as the provisions covering this subject are concerned, has been adopted by all the belligerents) the presence of a cargo, which in bulk or value consists of 50 per cent contraband articles, impresses the ship with enemy character and subjects it to seizure and condemnation by a prize court.

(4) Enemy property, including ships and cargoes, is always subject to seizure and condemnation. Any enemy property taken by a belligerent on the high seas is a total loss to the owners. There is no redress in a prize court. The only means of avoiding loss is by flight or successful resistance. Enemy merchant ships have, therefore, the right to arm for the purpose of self-protection.

(5) A belligerent warship is any vessel which, under commission or orders of its Government imposing penalties or entitling it to prize money, is armed for the purpose of seeking and capturing or destroying enemy property or hostile neutral property on the seas. The size of

the vessel, strength of armament, and its defensive or offensive force are immaterial

(6) A belligerent warship has, incidental to the right of seizure, the right to visit and search all vessels on the high seas for the purpose of determining the hostile or innocent character of the vessels and their cargoes. If the hostile character of the property is known, however, the belligerent warship may seize the property without exercising the right of visit and search which is solely for the purpose of obtaining knowledge as to the character of the property. The attacking vessel must display its colors before exercising belligerents' rights.

(7) When a belligerent warship meets a merchantman on the high seas which is known to be enemy owned and attempts to capture the vessel, the latter may exercise its right of self-protection either by flight or by resistance. The right to capture and the right to prevent capture are recognized as equally justifiable.

(8) The exercise of the right of capture is limited, nevertheless, by certain accepted rules of conduct based on the principles of humanity and regard for innocent property, even if there is definite knowledge that some of the property, cargo as well as the vessel, is of enemy character. As a consequence of these limitations, it has become the established practice for warships to give merchant vessels an opportunity to surrender or submit to visit and search before attempting to seize them by force. The observance of this rule of naval warfare tends to prevent the loss of life of noncombatants and the destruction of innocent neutral property which would result from sudden attack.

(9) If, however, before a summons to surrender is given, a merchantman of belligerent nationality, aware of the approach of an enemy warship, uses its armament to keep the enemy at a distance, or after it has been summoned to surrender it resists or flees, the warship may properly exercise force to compel surrender.

(10) If the merchantman finally surrenders, the belligerent warship may release it or take it into custody. In the case of an enemy merchantman it may be sunk, but only if it is impossible to take it into port, and provided always that the persons on board are put in a place of safety. In the case of a neutral merchantman, the right to sink it in any circumstance is doubtful.

(11) A merchantman entitled to exercise the right of self-protection may do so when certain of attack by an enemy warship, otherwise the exercise of the right would be so restricted as to render it ineffectual.

There is a distinct difference, however, between the exercise of the right of self-protection and the act of cruising the seas in an armed vessel for the purpose of attacking enemy naval vessels.

(12) In the event that merchant ships of belligerent nationality are armed and under commission or orders to attack in all circumstances certain classes of enemy naval vessels for the purpose of destroying them, and are entitled to receive prize money for such service from their Government or are liable to a penalty for failure to obey the orders given, such merchant ships lose their *status* as peaceable merchant ships and are to a limited extent incorporated in the naval forces of their Government, even though it is not their sole occupation to conduct hostile operations.

(13) A vessel engaged intermittently in commerce and under a commission or orders of its Government imposing a penalty, in pursuing and attacking enemy naval craft, possesses a *status* tainted with a hostile purpose which it can not throw aside or assume at will. It should, therefore, be considered as an armed public vessel and receive the treatment of a warship by an enemy and by neutrals. Any person taking passage on such a vessel can not expect immunity other than that accorded persons who are on board a warship. A private vessel, engaged in seeking enemy naval craft, without such a commission or orders from its Government, stands in a relation to the enemy similar to that of a civilian who fires upon the organized military forces of a belligerent, and is entitled to no more considerate treatment.

Part X.

HOVERING OF BRITISH WARSHIPS NEAR THE TERRITORIAL WATERS OF THE UNITED STATES.

Collector of Customs Hamilton to the Secretary of the Treasury.

United States Custom Service,
Norfolk, Va., November 20, 1915.

Sir: I have the honor to enclose herewith an affidavit filed in this office at 3 p. m. November 19th, by Charles Moller, Master of the Danish steamship *Vinland.* The affidavit is self-explanatory.

The Master of the *Vinland,* upon filing the affidavit, stated he was under instructions to remain here for the present, and his vessel has not offered to clear. The chart, which the affidavit sets forth as accompanying same, was delivered at this office to-day, November 20th. It is rather large and bulky, and is being held in this office subject to instructions.

Respectfully,

Norman R. Hamilton.

[Inclosure.]

I, the undersigned, Captain Charles Moller, Master of the Danish steamship *Vinland,* herewith beg to make the following report to the American authorities concerned:

I left New York with my ship on the 10th day of November, 1915, at 5 a. m., in ballast, for Norfolk, Virginia, to load a cargo of coal for South America. At 7.15 a. m. dropped pilot at Scotland L. V., about 8.45 a. m. we sighted what later appeared to be a British warship, name unknown, steering a northerly course towards us. We changed our course immediately in order to get close under land and within the three-mile limit. When abreast of Sea Girt Light, the warship was bearing down on us, and closing in on us rapidly, and were presently hoisting signals for us to

stop. We ignored his signals but proceeded on our course, now only two miles off land and still getting closer. We, however, dipped our flag in salutation, which was answered by war vessel, at the same time pulling down his signal, but he did not give up following us. We approached the coast within one mile all the way.

At 11.30 a. m. passed Barnegat, one mile distant.

At 1.15 p. m. passed Brigantine L. V. on port bow.

At 5.35 p. m. passed Hereford Light, three miles distant.

At 6.35 p. m. passed McCries Gas Buoy, close inside.

Near Five Fathom Bank Light Vessel the darkness and haze setting in forced the British ship to get farther out, whereas we took the channel keeping close to the American coast. Between Hereford Light and McCries Gas Buoy, we again sighted the Br. warship coming around the light vessel, steering towards us. As it was impossible at this spot to keep within the three-mile limit, we took the Cape May Channel and anchored inside the Breakwater for the night. We left the Breakwater for Norfolk at 4 a. m. on the 12th, following the coast within the three-mile limit all the way. As it was hazy, nothing further was seen of the British warship. We arrived at Norfolk 8.15 p. m. Nov. 12th, 1915.

I have marked out our course on the accompanying chart and also the route of the warship which was inside the three mile limit when ordering us to stop.

My ship is in legitimate trade and was in transit from one American port to another American port, and I hereby make record of the occurrence as it happened within American territory, while at the same time I have asked my Government to protest against what is a violation of the International rules governing the seas.

CHAS. MOLLER,
Master, S. S. "Vinland."

STATE OF VIRGINIA, *City of Norfolk, to wit:*

Personally appeared before me, Charles Moller, whose name is signed to foregoing writing and declared same to be true and correct.

Given under my hand this 19th day of November, 1915.

L. B. FOSTER, *N. P.*

[SEAL.]

My commission expires May 7/17.

The British Ambassador to the Acting Secretary of State.

BRITISH EMBASSY,
Washington, November 27, 1915.

MY DEAR MR. ACTING SECRETARY: I hasten to acknowledge receipt of your letter of yesterday's date[1] informing me that according to an affidavit of the master of the Danish ship *Vinland* he was followed within the 3-mile limit by a British warship.

I have at once communicated the sense of your letter by telegraph to the British Naval authorities in order that an enquiry may be instituted, and I will not fail to communicate to you the results of such enquiry with as little delay as possible.

I am, etc.,

CECIL SPRING RICE.

The British Ambassador to the Secretary of State.

BRITISH EMBASSY,
Washington, December 1, 1915.

DEAR MR. SECRETARY: With further reference to Mr. Polk's informal letter of the 28th ultimo, respecting the statements made by the master of the steamship *Vinland* to the effect that he was followed by a British cruiser within American territorial waters, I have the honour to inform you that I have now received a short report from the British naval authorities with regard to this incident. A more detailed report is, I understand, being forwarded to me.

I am informed that the facts of the case are not as stated by the Master of the *Vinland*. The Admiral adds that the British ships of war employed in the Atlantic have strict orders against the violation of American territorial waters and he has every reason to believe that these orders have been carefully observed. I will not fail to communicate to you the detailed report as soon as it is received.

I am, etc.,

CECIL SPRING RICE.

[1] Not printed.

The British Ambassador to the Secretary of State.

No. 429.] BRITISH EMBASSY,
Washington, December 11, 1915.

SIR: With reference to my personal note of the 1st instant, I have the honour to inform you that a more detailed report has now been received with regard to the case of the steamship *Vinland*, the master of which stated that he had been chased by a British cruiser within the territorial waters of the United States.

The captain of the cruiser in question states that at 11 a. m. on Wednesday, November 10, while he was steaming N. N. E. at 10 knots, with Barnegat Lighthouse abeam, distance 5 miles, a steamer was observed coming down ahead. At 11.10 a. m., when distant some three to four miles she altered her course and steered in straight for the shore. The Captain estimated that when she altered her course she was four miles from land.

Seeing that it would be impossible to stop her before she reached territorial waters the Captain of the British cruiser turned his ship round and stopped outside Barnegat Buoy, hoisting the signal "What ship." The *Vinland* replied only by hoisting Danish colours, proceeding down the coast well inside the three-mile limit.

The cruiser made no further signal, but followed the *Vinland* down the coast, keeping about six miles off. At 7 p. m., when off McCries Shoal Buoy, Cape May, the Captain of the cruiser received orders to return to his beat, and did so.

It is further reported that the cruiser was never within four and a half miles of the shore, nor within one mile of the *Vinland*. The cruiser was generally about three or four miles off the *Vinland*, and made no signals beyond that described above.

I am, etc.,

CECIL SPRING RICE.

The Secretary of State to the British Ambassador.

No. 1016.] DEPARTMENT OF STATE,
Washington, December 16, 1915.

EXCELLENCY: With reference to Your Excellency's note of the 11th instant in regard to the case of the steamship *Vinland*, in which it is

stated that while His Majesty's Cruiser did not enter territorial waters of the United States, he "followed the *Vinland* down the coast" from Barnegat Lighthouse to off McCries Shoal Buoy, Cape May, where the Commander received orders to return to his "beat," which he did, I have the honor to refer to my informal notes of October 5[1] and December 22,[1] 1914, and April 16,[1] 1915, calling Your Excellency's attention to the annoyance which His Majesty's cruisers lying off the principal commercial ports of the United States and stopping and searching vessels immediately beyond American waters have given to shipping, both over-sea and coastwise, and to the seriousness with which the Government of the United States regarded the hovering of belligerent warships about American coasts and ports.

In reply to my informal notes Your Excellency was good enough to assure me that His Majesty's Government had issued instructions which would prevent further molestation of American commerce in the trade lanes approximate to American waters and to the great ports of the United States. I can not forbear, therefore, from calling the recent incident in which His Majesty's cruiser practically pursued a neutral vessel bound from one American port to another in ballast for the purpose of loading a cargo of coal for South America, to Your Excellency's attention. As His Majesty's Government is aware, this Government has always regarded the practice of belligerent cruisers patrolling American coasts in close proximity to the territorial waters of the United States and making the neighborhood a station for their observations as inconsistent with the treatment to be expected from the naval vessels of a friendly power in time of war, and has maintained that the consequent menace of such proceedings to the freedom of American commerce is vexatious and uncourteous to the United States.

I am constrained, therefore, to request that you lay this matter before His Majesty's Government with the earnest request that instructions be issued to His Majesty's ships to desist from a practice which this Government is convinced has been maintained for long periods at a time and which is peculiarly disagreeable to it and to American traders concerned.

Accept, etc.,

ROBERT LANSING.

[1] Not printed.

The British Ambassador to the Secretary of State.

BRITISH EMBASSY,
Washington, December 21, 1915.

SIR: I have the honour to acknowledge the receipt of your note No. 1016 of the 16th instant, in which, with special reference to the case of the Steamship *Vinland*, you refer to the question of belligerent cruisers patrolling the American coast, and request that the matter may be laid before His Majesty's Government with the earnest request that instructions be issued to His Majesty's ships to desist from a practice which the United States Government is convinced has been maintained for long periods at a time and which is peculiarly disagreeable—both to that Government and to American traders concerned.

Your note under reply has been communicated to His Majesty's Government, and I shall not fail to inform you of any further reply which I may be instructed to make on this subject.

I have, etc.,

CECIL SPRING RICE.

The Secretary of State to the British Ambassador.

No. 1026.] DEPARTMENT OF STATE,
Washington, December 22, 1915.

EXCELLENCY: Referring to my note of December 16, 1915, in response to your note of the 11th instant, relative to the case of the steamship *Vinland*, which was followed by a British cruiser down the Atlantic coast from Barnegat Lighthouse to a point off McCries Shoal Buoy, Cape May, I have the honor to advise you of the receipt of a letter of December 15 from the Secretary of War, with which is enclosed a copy of a communication from the Commanding Officer, Coast Defense of Galveston, Fort Crockett, Texas, from which I quote as follows:

1. A British cruiser stood off the entrance to Galveston Harbor from about 10.00 a. m. to 1.00 p. m., Sunday, December 5, 1915. When asked her identity by signal from Fort San Jacinto she replied, "A registered British cruiser," and stated in reply to another query that she did not intend to enter the harbor.
2. The cruiser did not come within the three-mile limit.

I have, etc.,

ROBERT LANSING.

The British Ambassador to the Secretary of State.

BRITISH EMBASSY,
Washington, March 20, 1916.

SIR: I did not fail to communicate to my Government copies of your notes of December 16 and December 22, in which exception was taken to certain proceedings of His Majesty's ships off the United States coast. Referring particularly to the case of the *Vinland*, you reminded me that the United States Government had always regarded the practice of belligerent cruisers patrolling American coasts in close proximity to the territorial waters of the United States and making the neighbourhood a station for their observations as inconsistent with the treatment to be expected from the naval vessels of a friendly power in time of war and has maintained that the consequent menace of such proceedings to the freedom of American commerce is vexatious and uncourteous to the United States.

My Government has carefully studied the contents of your notes. They are impressed by the fact that no suggestion seems to be made in either of them that British cruisers enter at all within the territorial waters of the United States, and they note that, on the contrary, the effect of the notes is to take exception to proceedings of these vessels when navigating admittedly on the high seas. The objection appears, indeed, to rest upon a claim to distinguish between different parts of the high seas, a claim which causes surprise to His Majesty's Government, who are unaware of the existence of any rules or principles of international law which render belligerent operations which are legitimate in one part of the high seas illegitimate in another. Under these circumstances it appears desirable that the position taken up by the United States Government should be more clearly defined. I am therefore instructed to have recourse to your courtesy in order to obtain fuller information as to the precise nature and grounds of the claims which are made by your Government, as well as their extent, since my Government are most anxious to recognize to the full any claims of this nature which are well founded in law, but are naturally unable to make a concession of what they regard as their belligerent rights.

The rights asserted in this respect by the United States Government in previous wars will no doubt be conceded by the United States Government as well founded when exercised by others. It will be in your recollection that my predecessor, Lord Lyons, complained that Rear

Admiral Wilkes had ordered the vessels under his command to anchor in such a position as to control the movements of ships desiring to enter or to depart from the port of Bermuda, and that he maintained a system of cruising in the neutral waters of Bermuda in excess of his rights as a belligerent. The charge was thus of a far more serious nature than that which the United States Government now make against His Majesty's ships. Admiral Wilkes in his reply, which was communicated officially by Mr. Secretary of State Seward to His Majesty's Legation on January 15, 1863, asserted that his vessels "But maintained a system of cruising outside of the neutral waters of Bermuda in and under our rights as a belligerent." It is clear, therefore, that this officer of the United States Government considered that his proceedings were fully justified so long as he could maintain that they had been restricted to the very practice of which the United States Government now complain, though resorted to in a far less aggravated form by His Majesty's ships, and of which they appear actually to desire to impugn the legality.

I venture to enclose herewith extracts from the official records of the United States Navy in the War of the Rebellion which will illustrate the practice followed in that war by the United States ships when conducting belligerent operations in the neighborhood of neutral territory.

In this connection I may be permitted to point out that the number of enemy merchant ships now sheltering in harbours of the United States makes it necessary for His Majesty's Government to maintain their cruisers in a position where they can have the best chance of capturing these ships if they should attempt to escape. Another urgent reason for a close and constant watch, which no doubt will be appreciated by the Naval Authorities, is the fact which I have brought to the notice of your Department and which has since formed the subject of judicial proceedings—that enemy ships received supplies of coal and provisions from neutral vessels leaving American ports. You stated in your reply to my representations that the United States Government could not go further, in any suspicious case brought to its notice, than conduct an investigation in order to determine in every possible way whether the transaction appeared to be bona fide. And in the cases of this nature which were brought before the Courts the charge was not a breach of neutrality, but merely of making false manifests. Under these circumstances, as enemy cruisers were at sea and preying on the commerce of the allies while they drew their supplies from American ports, it was incumbent on His Majesty's cruisers to adopt such measures as were

possible in order to cut off such supplies; and for this reason it is necessary that British cruisers should maintain such a position on the high seas as to enable them to intercept such supply ships before they have accomplished their purpose.

I have the honour to add in conclusion that in communicating the foregoing considerations I am instructed by Sir Edward Grey to state that while His Majesty's Government can not abandon any of their rights, so far as they are in accordance with international law and the practice of the United States Government themselves, they will use their best endeavors in order that the exercise of such belligerent rights should be attended with as little inconvenience to neutrals as possible.

I have, etc.,

CECIL SPRING RICE.

[Inclosure.]

Report of Commander Ridgely, United States Navy, commanding U. S. S. *Santiago de Cuba*, Key West, January 5, 1863.

I left the anchorage off Great Stirrup Cay to visit the Windward Anchorages. On the 9th we passed through the passage between Eleuthera and Cat Islands into Exuma Sound and anchored the same day off Fernandez Cay. On the 9th and 10th we passed close along San Salvador and Conception Islands and Rum Cay, and on the evening of the 10th anchored at the N. E. end of Long Island off Dove Cay.

On the 12th we anchored off the S. End of Eleuthera.

I left Stirrup Cay for the cruising ground to the Northward of Abaco hoping to intercept vessels bound from Nassau to Charleston.

The *Octorara* is watching the Providence Channels.

All the places with the exception of Stirrup Cay are British. Commander Ridgely seems to have cruised in British waters and to have stopped at British ports for belligerent purposes.

Report of Lt. Baldwin, U. S. S. *Vanderbilt*, off St. Thomas February 25, 1863:

I came off St. Thomas with the intention of sending in a boat for information, when I received an order from Admiral Wilkes, who was in the harbour, to search the *Peterhoff*, which vessel had just sailed. I boarded her some five miles off the harbour.

Report from Lt. Baldwin, Barbados, March 7, 1862:

I sailed to join the U. S. S. *Alabama* at St. Pierre, Martinique. The *Alabama* having just arrived off the harbour, Commander Nichols communicated with our

Consul, I remaining outside * * *. The *Alabama* then examined the island of Dominica while I went to Point a Pitre, Guadeloupe. I left next morning, meeting as agreed the *Alabama* off Basse Terre, on the western side of that island. After consulting with Captain Nichols I proceeded to Isle de Aves, arranging that the *Alabama* should go to Sombrero and the Anegada passage and toward the N. side of Puerto Rico and the anchorage of the Virgin passage. I found nothing at the Isle of Aves, and after looking among the islands in the Virgin passage went off St. Thomas, intending to send a boat in for information. As I got off the harbour the English steamer *Peterhoff* was coming out; and at the same time I received an order from Admiral Wilkes, who was at anchor in the harbour, to search her and come in and anchor.

Admiral Wilkes, March 18, 1863:

For a single vessel to blockade these roadsteads it is almost impossible. I have resorted to the plan of having two—one to be anchored at Fort de France and the other at St. Pierre, only some eight miles distant.

Admiral Wilkes, March 20, 1863:

On the subject of the squadron lying at St. Thomas, apparently watching the contrabands, I had some conversation with the Governor. * * * I put it to him that there were vessels in the harbour preparing to run the blockade, and we were in these waters to prevent them if possible; that so far as the neutrality of the harbours and waters of these islands was concerned we should take care to observe it most strictly. * * * I should not complain of these vessels coaling and refitting; but when they reached the high seas we should act the part of a belligerent and overhaul them. * * * Therefore whether we lay at anchor or cruised off the port was of no consequence. * * *

Admiral Wilkes, April 5, 1863:

You will get your command in condition to cruise off the harbour and island of St. Thomas for the purpose of intercepting contraband runners. After you leave the inner harbour of St. Thomas you will anchor at times in the outer roads to procure information. * * * Bear in mind, however, that if a capture after examination proves necessary the neutrality limits must not be infringed upon.

(See the correspondence between the Governor of St. Thomas and Admiral Wilkes, of April 1863.)

The Admiral states in his letter to the Governor of May 13 that

The idea of our using your harbour to make preparations or of infringing upon your neutral territory has never been conceived. It will not appear that we have in any case done so, but, on the contrary, have avoided making captures when it was ascertained that we were within the limits of His Danish Majesty's territory.

(He then proceeds to describe the circumstances of the capture of the *Peterhoff*, the attempt to capture the *Neptune*, the capture of the *Dolphin*, and the boarding of the *Intrinsic*. All these ships were pursued after leaving the port by ships of the United States stationed for that purpose in or near the port.)

Report of Admiral Wilkes May 13 of his conversation with the Governor of Martinique:

> We had looked closely along the shores for any vessels that might be secreted and felt we had a right to remain outside the neutral limit.

Instructions of Admiral Wilkes May 13 to Commander Bryson:

> You will proceed to cruise off the North East Channel or Abaco, where you will arrive about the dark of the moon, the time the blockade runners depart.

(See Report of Commander Clary, U. S. S. *Tioga*, May 20, 1863.)

> Cruising from Bemini * * * Matanilla Reef to along north end of Eleuthera to Cat Island and Exuma sound, returning to South Cays, Abaco Bahama, the Elbow, and Eastward.

Admiral Wilkes in his letter to the Secretary of the Navy of January 2 stated that "we but maintained a system of cruising outside of the neutral waters of Bermuda in and under our rights as a belligerent."

The United States ship *Iroquois* in November, 1861, hearing that the Confederate ship *Sumter* was in the port of St. Pierre, Martinique, stationed herself in the offing just beyond the marine league and kept up while there communication by boats with the shore and got the movements of the *Sumter* to be signalled to her. (See Report of Captain Palmer of November 17, November 23, and November 25, 1861.)

The Secretary of State to the British Ambassador.

No. 1152.] DEPARTMENT OF STATE,
Washington, Apr l 26, 1916.

EXCELLENCY: I have the honor to acknowledge your note of the 20th ultimo in the case of the *Vinland* and to state that I have not failed to give the matter set forth therein careful consideration.

Your Government ask for further information as to the precise nature and grounds of the claims made by this Government as they are most

anxious to recognize to the full extent any claims which are well founded in law, though unable to make a concession as to what they regard as their belligerent rights.

In reply it may be stated that the Government of the United States advances no claim that British vessels which have been and are cruising off American ports beyond the three-mile limit have not in so doing been within their strict legal rights under international law. The grounds for the objection of the Government of the United States to the continued presence of belligerent vessels of war cruising in close proximity to American ports are based, not upon the illegality of such action but upon the irritation which it naturally causes to a neutral country. The continued presence of British ships in the offings of the great American commercial centers is, I believe your Government will agree, an inevitable source of annoyance and offense. The cases of the *Vinland* and *Zealandia* show how belligerent vessels may be the cause of offense, and illustrate how the presence of vessels in such close proximity to the coast of a neutral country may easily become the cause of controversy.

The irritation aroused by such a practice was, during the American Civil War, manifested by Great Britain in the cases of the warships under the command of Rear Admiral Wilkes, U. S. N., to which you have called attention, and was the subject of protest by the British Government. The circumstances in those cases, however, were very different from the present, and the practice complained of far less offensive. The cruising, against which Great Britain protested, was done in the vicinity of small islands near the American coast which, after the blockade of the southern ports had been established, were used as rendezvous for vessels notoriously engaged in running the blockade. In the present case British cruisers are patrolling off the great ports of this country from which trade routes diverge to all parts of the world, particularly to Great Britain and her allies.

In this connection, as showing that for over a century the objections of this Government to British vessels hovering about the coasts have been maintained, I take the liberty of quoting from a letter of Mr. Madison, then Secretary of State, dated May 20, 1807, to Messrs. Monroe and Pinkney:

> It is much regretted that provision could not be obtained against the practice of British cruisers in hovering and taking stations for the purpose of surprising trade going in and out of our harbours; a practice which the British Government felt to

be unjust to the dignity and rights of that nation at periods when it was neutral.

It is thus seen that the contention of this Government in the present war is in no way a departure from the attitude taken in the early days of the Republic, the conduct of American naval officers during the Civil War, referred to above, having at least the justification of having been carried out in proximity to the seat of naval operations.

The fact that a number of German merchant vessels are laid up in American ports during the present war is not, as Your Excellency would seem to suggest, sufficient cause for the strict surveillance to which those ports are subject by British ships of war; for, I may state to you, a considerable number of American naval vessels have been constantly engaged since the war opened—and, I think Your Excellency will admit, successfully engaged—in preventing the use of American ports as bases of naval operations. Furthermore, the alleged escape of vessels from American ports with supplies for German warships at sea, which has made it necessary, as you state, for His Majesty's vessels to take a position which would enable them to intercept such supply ships, can not now be regarded as a valid excuse for such action, because it is a matter of common knowledge that German warships have for many months been driven from the seas adjoining the coasts of the United States. In fact, Your Excellency has not called the possibility of the escape of supply ships to my attention since March, 1915. In the meantime, however, I have found it necessary to call your attention to certain instances of His Majesty's ships hovering off American ports and communicating with boats coming out from shore and even coaling in American waters.

Further reasons, if necessary, may be adduced to oppose the British practice. In time of peace the mobilization of an army, particularly if near the frontier, has often been regarded as a ground for serious offense and been made the subject of protest by the Government of a neighboring country. In the present war it has been the ground for a declaration of war and the beginning of hostilities. Upon the same principle the constant and menacing presence of cruisers on the high seas near the ports of a neutral country may be regarded according to the canons of international courtesy as a just ground for offense, although it may be strictly legal.

I have shown, I believe, that this Government's contention is supported not only by ample precedents extending through American and

British relations since the early years of the Republic and by the analogy in the mobilization of armed forces near an international boundary, but also by the lack of a sufficient excuse for such an objectionable practice as I have had the unpleasant duty of bringing to Your Excellency's attention. I trust, therefore, that your Government will be willing to recognize my Government's contention to the extent of instructing His Majesty's cruisers to withdraw from the vicinity of the territorial waters of the United States and remain at such distances from American harbors and coasts as to avoid the annoying and inquisitorial methods which have compelled this Government to complain formally to Your Excellency's Government.

I have, etc.,

ROBERT LANSING.

Part XI.

CASE OF THE BRITISH STEAMSHIP APPAM, CAPTURED BY GERMAN NAVAL FORCES AND BROUGHT BY A PRIZE CREW INTO AN AMERICAN PORT.

The German Ambassador to the Secretary of State.

[Translation.]

J. Nr. A. 785.] GERMAN EMBASSY,
Washington, February 2, 1916.

MR. SECRETARY OF STATE: I have the honor to inform Your Excellency that the British steamer *Appam*, captured by the German naval forces, arrived at Newport News, Va., on the 1st of this month under the command of Lieut. Berg of the navy. The commanding officer intends, in accordance with Article XIX of the Prusso-American Treaty of September 10, 1785, to stay in an American port until further notice.

The *Appam* has not been converted into an auxiliary cruiser, is not armed, and has made no prize under Mr. Berg's command. She carries on board the crews of seven enemy vessels taken by H. M. S. *Moewe* who have been transferred to her by that ship.

There is on board a locked-up military party of the enemy, whose internment in the United States I request.

The crew of the *Appam* tried to offer resistance when the ship was captured, as the guns at hand were already in place and trained on the German warship. The members of the crew are therefore to be looked upon likewise as combatants, and I have the honor to ask of Your Excellency that they too be detained in the United States until the end of the war.

Accept, etc.,

J. BERNSTORFF.

The Secretary of State to the British Ambassador.

DEPARTMENT OF STATE,
Washington, February 3, 1916.

MY DEAR MR. AMBASSADOR: Referring to our conversation of to-day in regard to the steamer *Appam* now at Norfolk in charge of a German prize crew, I have received from the collector of customs in Norfolk a list (copy of which is inclosed) [1] of persons on board the *Appam* which the prize master asserts are in the military or naval service of His Britannic Majesty and whom he believes, therefore, should not be released from his vessel. I desire, therefore, to ask if you will be good enough to inform me as to whether any of the gentlemen named on the list are members of His Majesty's armed forces.

I am, etc.,

ROBERT LANSING.

Memorandum from the British Embassy.

BRITISH EMBASSY,
Washington, February 4, 1916.

The British Embassy has the honour to refer to the rule of international law now generally recognized and embodied in Articles 21 and 23 of The Hague Convention XIII of 1907 and to request that the principles in question should be applied to the *Appam*.

These principles have been accepted by both the British and the United States Governments. The Queen's Proclamation of 1861 interdicted the armed ships of belligerents from carrying prizes made by them into British ports, harbours, roadsteads, or waters, a measure of which the Secretary of State of the United States expressed his approval.

In the report of the American delegates to The Hague Conference it is stated that while Articles 21 and 22 seemed unobjectionable, Article 23 (allowing the sequestration of prizes) "was objectionable for the reason that it involves a neutral in participation in the war to the extent of giving asylum to a prize which the belligerent may not be able to conduct to a home port. This article represents the revival of an

[1] Not printed.

ancient abuse and should not be approved. In this connection it is proper to note that a proposition absolutely forbidding the destruction of a neutral prize, which was vigorously supported by England and the United States, failed of adoption. Had the proposition been adopted there would have been some reason for authorizing such an asylum to be afforded in the case of neutral prizes."

This declaration shows that the Prussian treaty of 1799 (by which in any case Great Britain, not being a party, can not be affected) was regarded as obsolete and inconsistent with modern doctrines, and the fact that the United States Government adhered to the convention while reserving Article 23 shows that in so far as the provisions of the treaty of 1799 conflict with the convention they are regarded as overridden by the later instrument.

The rule embodied in Article 21 of the 1907 Convention is of general application, and the fact that Great Britain has not ratified the convention does not affect the obligation of the United States to treat ships and property of all nations in accordance with what the attitude of the United States towards the convention shows that they themselves regarded as the general rule.

Relying on the above considerations this Embassy is instructed to request that if the *Appam* is regarded by the United States Government as a prize she should be restored to her owners and the prize crew interned.

The British Embassy begs to add that according to information received the captain of the German prize crew signalled on arrival that the ship was a part of the armed naval force of the German Empire. If this claim is advanced the United States Government will doubtless deal with the ship according to their recognized practice. If, however, she is regarded as a prize, this Embassy expresses its entire confidence that she will not be allowed to leave United States jurisdiction under German control in a condition which would enable her to undertake offensive action; and that she will not be allowed to increase or augment her force by adding to her armament or her crew or by transfer of trained men to the ship or by a change of personnel or in any other manner. The British Embassy begs to add that the claim that the ship was a war vessel shows that if allowed by the United States to leave as a prize under German control she would be used by the Germans as a man-of-war; and it is needless to remind the State Department of the doctrine accepted by both our Governments, under which the British Government

would be compelled to hold the United States Government responsible for any injury which she may inflict.

CECIL SPRING RICE.

Memorandum from the German Embassy.[1]

Telegram from the German Government concerning its opinion on *Appam* case:

Appam is not an auxiliary cruiser but a prize. Therefore she must be dealt with according to Article 19 of Prusso-American Treaty of 1799. Article 21 of Hague Convention concerning neutrality at sea is not applicable, as this convention was not ratified by England and is therefore not binding in present war according to Article 28. The above-mentioned Article 19 authorizes a prize ship to remain in American ports as long as she pleases. Neither the ship nor the prize crew can therefore be interned nor can there be question of turning the prize over to English.

Memorandum from the British Embassy.

BRITISH EMBASSY,
Washington, February 12, 1916.

It has been ascertained from Norfolk that no restrictions are placed upon persons going on board the *Appam* at the invitation of her commander, though the latter reports daily to the collector of customs that all visitors have returned to the shore.

The British Embassy cannot but view this arrangement with some anxiety and, referring to their memorandum of February 3rd, beg to reiterate the expression of their confidence that adequate precautions are being taken with a view to preventing any increase in the armament or crew of the ship or any change in her personnel which would augment her force.

The present notification is not of course to be considered as a request for action or as a complaint, but is made in fulfilment of the duty incumbent on this Embassy to inform the State Department at once of any information which may reach them relative to matters appertaining to pending questions between the two Governments.

[1] Received at the Department of State February 8, 1916.

Memorandum from the British Embassy.

BRITISH EMBASSY,
Washington, February 15, 1916.

The British Embassy has the honour to inform the State Department that the British Government reserves all rights under accepted principles and practice of international law with regard to the *Appam*, and that any action taken in the matter by the owners in maintenance of their interests is not in any way to be considered as prejudicing any claim advanced or to be advanced by the British Government.

The German Ambassador to the Secretary of State.

J. Nr. A. 1293.] GERMAN EMBASSY,
Washington, February 22, 1916.

MY DEAR MR. SECRETARY: Lieut. Hans Berg, of the German Imperial Navy and commander of H. M. S. *Appam*, now lying at anchor near Newport News, Va., has informed me that a libel was filed against said vessel in the United States District Court for the Eastern District of Virginia, at Norfolk, on the 16th day of February, 1916, by the British and African Steam Navigation Co., Limited, and that, under the authority of said court, he has been cited by the marshal of the eastern district of Virginia to appear before said court on Friday, the 3d day of March, 1916, to answer the said libel.

As the *Appam* was captured at sea by a German man-of-war and brought to the Virginian port as a prize ship according to the treaty existing between our countries, you may well appreciate my surprise at the action which has been taken.

Article XIX of the treaty of 1799 between Prussia and the United States, renewed in part by Article XII of the treaty of 1828, provides that "the vessels and effects taken from" the enemies of the contracting parties may be carried freely wheresoever they please, and that such prizes shall not be "put under legal process when they come to and enter the ports of the other party. * * *"

In view of the terms of the treaty, I am at a loss to understand why such action has been taken by a court of your country. It may be argued that it has been because Article 21 of The Hague "Convention

concerning the rights and duties of neutral powers in naval war" is applicable. This article provides:

> A prize may only be brought into a neutral port on account of unseaworthiness, stress of weather, or want of fuel or provisions.
>
> It must leave as soon as the circumstances which justified its entry are at an end. If it does not the neutral power must order it to leave at once; should it fail to obey the neutral power must employ the means at its disposal to release it with its officers and crew and to intern the crew.

But as Great Britain has not ratified the convention the article is not binding, for the reason that Article 28 provides: "The provisions of the present convention do not apply except to the contracting powers, and then only if all the belligerents are parties to the convention."

Besides, the *Appam* flies the naval flag of and belongs to the German Government, and therefore the possession of the captors in a neutral port is the possession of their sovereign. The sovereign whose officers have captured the vessel as a prize of war remains in possession of that vessel and has full power over her. The neutral sovereign or its court can take no cognizance of the question of prize or no prize and can not wrest from the possession of the captor a prize of war brought into its ports.

The position which I take is fully supported by an opinion of the Attorney General of the United States (7 Op., 122), the syllabus of which recites that a "foreign ship of war or any prize of hers in command of a public officer possesses in the ports of the United States the right of exterritoriality and is not subject to the local jurisdiction."

I would therefore most respectfully protest against the action of the United States District Court, and request that you may ask the Attorney General to instruct the United States District Attorney for the Eastern District of Virginia to appear before the United States District Court and take such steps as may be necessary and proper to secure the prompt dismissal of the libel.

I am, etc., J. BERNSTORFF.

The Secretary of State to the German Ambassador.

DEPARTMENT OF STATE,
Washington, March 2, 1916.

EXCELLENCY: I have the honor to acknowledge the receipt of Your Excellency's note of the 2d of February, informing me that the British

steamer *Appam*, captured by the German naval forces, had arrived at Norfolk under the command of Lieut. Berg, of the Imperial German Navy, who intends, in accordance, as he believes, with Article XIX of the Prussian-American treaty of 1799, to remain in American waters until further notice, and that the *Appam* has not been converted into an auxiliary cruiser, is not armed, and has taken no prizes under Lieut. Berg's command. In conclusion Your Excellency requests internment in the United States during the remainder of the war of a military party belonging, Your Excellency states, to the enemy of Germany and also the internment of the crew of the *Appam*, inasmuch as they offered resistance to capture by His Majesty's forces.

I have the honor also to acknowledge the receipt of Your Excellency's note of February 22, calling my attention to a libel which has been filed against the *Appam* by the United States District Court on February 16 by the British and African Steam Navigation Co., Limited, and to the fact that Lieut. Berg has been cited to appear before the court on March 3 next to answer this libel. Your Excellency points out that in view of the terms of Article XIX of the treaty of 1799 and of the inoperation of The Hague Convention relating to neutral rights and duties in naval warfare, you are at a loss to understand why such action has been taken in this country. Your Excellency, moreover, asserts in effect that as the *Appam* flies the naval flag of and belongs to the German Government, and as the possession of the captors is the possession of their sovereign, "the neutral sovereign or its court can take no cognizance of the question of prize or no prize and can not wrest from the possession of the captor a prize of war brought into its ports." Your Excellency, in conclusion, protests against the action of the court and requests that the Attorney General instruct the proper United States District Attorney to take such steps as may be necessary and proper to secure the prompt dismissal of the libel.

Article XIX of the treaty of 1799, to which Your Excellency refers, reads as follows:

> The vessels of war, public and private, of both parties, shall carry (conduire) freely, wheresoever they please, the vessels and effects taken (pris) from their enemies, without being obliged to pay any duties, charges, or fees to officers of admiralty, of the customs, or any others; nor shall such prizes (prises) be arrested, searched, or put under legal process, when they come to and enter the ports of the other party, but may freely be carried (conduites) out again at any time by their captors (le vaisseau preneur) to the places expressed in their commissions, which the commanding officer of such vessel (le dit vaisseau) shall be obliged to show. But conformably

to the treaties existing between the United States and Great Britain, no vessel (vaisseau) that shall have made a prize (prise) upon British subjects, shall have a right to shelter in the ports of the United States, but if (il est) forced therein by tempests, or any other danger or accident of the sea, they (il sera) shall be obliged to depart as soon as possible.

This translation is taken from the published treaties of the United States, and while not conforming strictly to the original French text (copy of which is inclosed), is sufficiently accurate for the purposes of this note. At the outset it may be pointed out that as the object of this provision was to mollify the existing practice of nations as to asylum for prizes brought into neutral ports by men-of-war, it is subject to a strict interpretation when its privileges are invoked in a given case in modification of the established rule. By a reasonable interpretation of Article XIX, however, it seems clear that it is applicable only to prizes which are brought into American ports by vessels of war. The *Appam*, however, as Your Excellency is aware, was not accompanied by a ship of war, but came into the port of Norfolk alone in charge of a prize master and crew. Moreover, the treaty article allows to capturing vessels the privileges of carrying out their prizes again "to the places expressed in their commissions." The commissions referred to are manifestly those of the captor vessels which accompany prizes into port and not those of the officers of the prizes arriving in port without convoy, and it is clear that the port of refuge was not to be made a port of ultimate destination or indefinite asylum. In the case of the *Appam* the commission of Lieut. Berg, a copy of which was given to the collector of customs at Norfolk, not only is a commission of a prize master, but directs him to bring the *Appam* to the nearest American port and "there to lay her up." In the opinion of the Government of the United States, therefore, the case of the *Appam* does not fall within the evident meaning of the treaty provision which contemplates temporary asylum for vessels of war accompanying prizes while en route to the places named in the commander's commission, but not the deposit of the spoils of war in an American port. In this interpretation of the treaty, which I believe is the only one warranted by the terms of the provision and by the British treaties referred to in Article XIX, and by other contemporaneous treaties, the Government of the United States considers itself free from any obligation to accord the *Appam* the privileges stipulated in Article XIX of the treaty of 1799.

Under this construction of the treaty the *Appam* can enjoy only those

privileges usually granted by maritime nations, including Germany, to prizes of war, namely, to enter neutral ports only on case of stress of weather, want of fuel and provisions, or necessity of repairs, but to leave as soon as the cause of their entry has been removed.

As to the grounds upon which the application for the libel of the *Appam* by the United States court was made, this Department has no direct information; but it is understood that the libelant contends that the *Appam* is not, assuming that it is a prize of the German Government, the property of that Government, but that, on the contrary, the title to the vessel is now properly in the British owners. Whether in these circumstances the United States court has properly or improperly assumed jurisdiction of the case and taken custody of the ship is a legal question which, according to American practice, must now be decided by the municipal courts of this country. With the purpose, however, of having Your Excellency's views as to this matter brought to the attention of the court, I have transmitted your note of February 22 to the Attorney General, with a request that he instruct the United States District Attorney to appear in the case as *amicus curiæ* and present to the court a copy of Your Excellency's note.

As to the internment of the military party which Your Excellency states was on board the *Appam*, as well as the officers and crew who offered resistance to capture by His Majesty's ships, I have the honor to inform you that the Government has, after due consideration, concluded that they should be released from detention on board the *Appam*, together with their personal effects.

Accept, etc.,

ROBERT LANSING.

The German Ambassador to the Secretary of State.

J. Nr. A. 1829.] GERMAN EMBASSY,
Washington, March 14, 1916.

MY DEAR MR. SECRETARY: Referring to previous correspondence in regard to H. M. S. *Appam*, am informed by our counsel that the State and Treasury Departments, mainly through the collector of customs, have been requesting the District Court of the United States for the Eastern District of Virginia to guard against two things: (1) An augmentation of the crew of the *Appam;* and (2) an attempt on her part

to escape; and that such action would tend to disturb the peace of mind of the court.

While I can not understand on what theory the court can be asked to have anything to do with questions of augmentation, I can readily appreciate its desire to prevent any possible escape so long as court proceedings are pending.

In view of the action of the Departments, the court appears unwilling to permit the ship to continue in the stream with only two keepers, and has requested counsel to consent to her removal to a wharf or some safer anchorage.

Lieut. Berg objects to her being taken to a wharf on account of increased difficulty of controlling his crew, the danger of annoyance from curiosity seekers, and the possibility of injury from hostile sources.

Because of the divergent wishes in this respect, I believe that the court will be fully satisfied, and at the same time Lieut. Berg can carry out his wishes, if I now assure you, as I do, that, while reserving all the rights of the German Government in this case, both before the court and in our diplomatic negotiations, and with a further reservation that such assurance and agreement shall be without prejudice to the defense, no change shall be made in the status quo with respect to augmentation of the crew or equipment that might be considered a breach of neutrality, and that no attempt to run the vessel away will be made so long as said ship remains under the custody of said court.

I would therefore most respectfully request that you may communicate my assurance to the Treasury Department, and that both Departments may communicate, through the proper officers, with the court and inform it that, in view of my assurance, they have no further requests to make along this line at the present time, and that for the present it would not appear to be necessary that the ship be removed to a wharf.

In my note of February 22 I requested you to ask the Attorney General to instruct the United States District Attorney for the Eastern District of Virginia to appear before the United States District Court and take such steps as may be necessary and proper to secure the dismissal of the libel. At a hearing held before said court at Richmond, Va., on March 7, said attorney appeared and presented a copy of my said note of February 22 to you, but did not ask for the dismissal of the libel. In view of this fact, and believing at this time that his presence in said court will not be further necessary for assisting in arriving at a solution of the case, I would most respectfully request that you

may ask the Attorney General to instruct him not to appear further without securing express instructions so to do for such special reasons as your Government may have for so authorizing him.

I am etc.,

J. BERNSTORFF.

The German Ambassador to the Secretary of State.

[Translation.]

J. Nr. A. 1727.] GERMAN EMBASSY,
Washington, March 16, 1916.

In reply to your kind note of the 2d instant, I have the honor, in compliance with instructions, to submit to you the inclosed memorandum of the Imperial Government on the subject that has been received by me.

Should the Government of the United States fail to concur in the Imperial Government's interpretation, the Imperial Government would propose that the construction of the treaty in question be referred to The Hague Court of Arbitration in the same way as the Imperial Government proposed in the *William P. Frye* case in Secretary of State von Jagow's note of November 29 last, to Mr. Gerard, ambassador of the United States at Berlin, provided that the status quo of the steamship *Appam* will remain unchanged throughout the arbitration proceedings and that the steamer will be allowed to remain with her prize crew in an American port during that time.

Accept, etc.,

J. BERNSTORFF.

[Inclosure.]

MEMORANDUM.

J. Nr. A 1727/16.] GERMAN EMBASSY.

The Imperial Government does not consider correct the interpretation of the Department of State of Article 19 of the treaty of 1799 as given in the note.

The Department of State criticized that the *Appam* was not brought into port by a warship, but arrived only with a prize crew on board. The treaty of 1799, referring to prizes accompanied by a warship, speaks, of course, of commercial warfare as it was usual in those times and

which could be carried on by both parties only by privateers. This made it necessary that the prize was brought into port by the capturing vessel. The development of modern cruiser warfare, where, as a rule, the warship sends her prize into port by a military prize crew, can not render the stipulations of Article 19 of said treaty null and void. The prize masters and prize crew, who represent the authority of the belligerent State, now take the place which the capturing vessel held formerly. That such stipulations are not in contradiction to the general rules of international law, and that, therefore, the treaty is not subject to the especially strict interpretation given to it by the Department of State, is proved by Article 23 of The Hague Convention regarding neutrality on sea, which was adopted by a great majority, although under reservation by the United States, Great Britain, and Japan.

The Department of State missed in the commission of Lieut. Berg. an order to take the prize into a German port, as it is unwilling to admit the permanent internment of the German prize in an American port as a consequence of the treaty. As proved by the last but obsolete sentences of Article 19 of the treaty of 1785 and Article 19 of the treaty of 1799, the object of Article 19 is to grant asylum or shelter to prizes of one contracting party in the ports of the other party. The asylum naturally continues only as long as the prize crew is on board and the danger of being captured by enemy naval forces exists. Both premises prevail in this case. Lieut. Berg, an officer of the Imperial Navy, was commissioned by the commander of a German warship to seek with his prize in an American port the asylum guaranteed by the treaty. The opinion of the Department of State that the commission must mention a German port of destination for the prize is unfounded, as Article 19 only provides the freedom of the prize to leave for the places which are named in the commission, but does not make the right of asylum depend on such port being mentioned. Such an indication seems superfluous if the prize is conducted by a prize crew mustered from the Imperial Navy, for such crew has to bring the prize into a German port as soon as possible. At present the claim for asylum naturally still exists, considering the uneven distribution of the domination of the seas between the belligerents.

As long as the right of asylum lasts the jurisdiction of American courts over the prize is formally excluded by Article 19; a German prize court alone is competent. The opinion of the Department of State that the American courts must decide about the claims of the British shipping company is incompatible with the treaty stipulations.

It is therefore respectfully requested that the prize crew should be permitted to remain in the American port, and also that the legal steps before an American court should be suspended.

British Ambassador to the Secretary of State.

BRITISH EMBASSY,
Washington, March 31, 1916.

MY DEAR MR. SECRETARY: On February 3rd, last I had the honour, under instructions from my Government, to request that if the *Appam* were regarded by the United States Government as a prize she should be restored to her owners and the prize crew interned.

Since that date it has come to my knowledge that a proceeding has been brought in the Admiralty Court of the United States by the owners of the vessel for its restitution and that the court has taken jurisdiction of the suit. It appears that the vessel had been detained in an American port by the prize crew for more than two weeks before suit was instituted. I am informed that the vessel was in a seaworthy condition when brought into port and that the time which elapsed before the beginning of the suit was more than sufficient to supply any deficiencies of coal and provisions. The detention of the vessel for such a period of time was therefore a violation of the neutrality of the United States under the Law of Nations as expressed in Articles 21 and 22 of Convention 13 as formulated at The Hague in 1907 and as previously understood and applied among the nations.

I understand that the Admiralty Courts of the United States have jurisdiction to decree the restitution to the owners of a prize brought into an American port by a belligerent captor when there has been a violation of American neutrality on the part of the captor. It seems to me desirable and proper that such violation of American neutrality should be called to the court's attention, not only by the private owners of the captured vessel but also by the official representatives of the United States Government.

I have the honour to request that if the United States Government do not see their way clear to direct by executive order, as suggested in my note above referred to, the return of the vessel to her British owners, instructions may be given, should there be no objection, to the proper

representatives of the Department of Justice of the United States to appear in their official capacity before the United States District Court for the Eastern District of Virginia, in which the suit for the recovery of the steamship *Appam* is pending, and to represent to that court on behalf of the Government of the United States that the detention of the steamship *Appam* under the circumstances above set forth constituted a violation of the neutrality of the United States and apply to the court to direct the return of the vessel to her owners upon due proof of their ownership and of the facts constituting the violation of neutrality above set forth.

I am, etc.,

CECIL SPRING RICE.

The Secretary of State to the British Ambassador.

DEPARTMENT OF STATE,
Washington, April 4, 1916.

MY DEAR MR. AMBASSADOR: I have received your formal note of the 31st ultimo, in which you request that as the *Appam* had violated the neutrality of the United States by her staying in port up to the beginning of the suit now pending against her, such violation of American neutrality be called to the court's attention by the proper representatives of the Department of Justice on behalf of the Government of the United States, and that application be made to the court to direct the return of the vessel to the owners upon due proof of their ownership and of the facts constituting a violation of neutrality.

In reply, allow me to say that as the vessel was in American jurisdiction up until the time of the filing of the suit against her, pending consideration of the question as to whether she was entitled to the privileges claimed for her by the German Government by virtue of Article 19 of the treaty of 1799, and as this Government reached a decision on that question only after the libel had been filed, I am unable to accept your suggestion that the presence of the *Appam* in American waters, in the circumstances, constituted a violation of the neutrality of the United States. Holding this view, I regret that I am unable to comply with your request to have official representations made to the court in the sense of your note under acknowledgment

I am, etc.,

ROBERT LANSING.

The Secretary of State to the German Ambassador.

No. 2217.] DEPARTMENT OF STATE,
Washington, April 7, 1916.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 16th ultimo, inclosing a memorandum of the Imperial German Government on the subject of the *Appam*, now at Norfolk. The memorandum of the Imperial Government contends, in brief, that Article 19 of the treaty of 1799 "speaks, of course, of commercial warfare as it was usual in those times and which would be carried on by both parties only by privateers," and that the development of modern cruiser warfare, in which a prize master and crew representing the authority of a belligerent State now take the place which the convoying vessel formerly held, should govern the present interpretation of the treaty. The Government of the United States agrees with the German Government's statement that the treaty speaks of a mode of warfare in use at the time the treaty was negotiated. It is precisely for this reason that the Government of the United States does not believe that the treaty was intended to apply to circumstances of modern warfare which are essentially different from those in vogue at the close of the eighteenth century. The Government of the United States does not understand upon what ground the Imperial Government contends that a treaty granting concessions under specifically mentioned circumstances can be construed to apply to a situation involving other and different circumstances. To grant limited asylum in a neutral port to a prize accompanied by the capturing vessel is not the granting of a right of "laying up" in a neutral port a prize which arrives in the control of a prize master and crew.

Your Excellency's Government further contends that Article 19, besides being applicable to modern conditions, is not contrary to the general rules of international law, and therefore not subject to a restricting interpretation, and in support of this cites as declaratory of the general rules of international law Article 23 of Hague Convention XIII. As indicated by the Imperial Government, the United States did not in the case of this convention, and never has, assented to the sequestration of prizes in its ports. The ground of this position of the United States is that it does not, in the opinion of this Government, comport with the obligations of a neutral power to allow its ports to be used either as a place of indefinite refuge for belligerent prizes or as a

place for their sequestration during the proceedings of prize courts. The contention of the Government of the United States in its note of March 2 in this case is consistent with this long-established and well-known policy of the American Government, in the light of which the treaty of 1799 was negotiated and has been enforced and applied. Provided the vessel enters an American port accompanied by a German naval vessel, Article 19 contemplates in the view of this Government merely temporary sojourn of the prize in an American port and not its sequestration there pending the decision of a prize court.

Holding the view that Article 19 is not applicable to the case of the *Appam*, this Government does not consider it necessary to discuss the contention of the Imperial Government that under Article 19 American courts are without jurisdiction to interfere with the prize, and for the same reason it can not accede to the request that the "legal steps before an American court should be suspended."

In Your Excellency's note transmitting the memorandum of your Government it is proposed that should this Government fail to concur in the contentions of the Imperial Government the construction of the treaty in question be referred to The Hague Court of Arbitration in the same way as the Imperial Government has proposed to do in the *William P. Fyre* case, provided that the *status quo* of the *Appam* remain unchanged throughout the arbitration proceedings and that the steamer be allowed to remain with her prize crew in an American port during that time. It is regretted that this proposal which appeals to the principle of arbitration, of which this Government is an earnest advocate, can not be accepted in this particular case by the Government of the United States. Its acceptance would manifestly defeat the very object of the United States in its reservation to Article 23 of Convention XIII by allowing the prize to remain in an American port for an indefinite period while the arbitration proceedings were in progress, which might continue until after peace is restored. In this respect the case differs from that of the *William P. Frye*. Moreover, inasmuch as the *Appam* has been libeled in the United States District Court by the alleged owners, this Government, under the American system of government, in which the judicial and executive branches are entirely separate and independent, could not vouch for a continuance of the *status quo* of the prize during the progress of the arbitration proposed by the Imperial Government. The United States Court, having taken jurisdiction of the vessel, that jurisdiction can only be dissolved by judicial proceedings leading

to a decision of the court discharging the case—a procedure which the executive can not summarily terminate.

In these circumstances the Government of the United States can only accept the proposal of the German Government for the arbitration of the meaning of Article 19 of the treaty of 1799, upon the understanding that the *Appam* depart from the territorial jurisdiction of the United States, in the event that the libel is dismissed by the court and after she has had a reasonable time to take on board such supplies as may be necessary, in the judgment of this Government, for a voyage to the nearest port subject to the sovereignty of Germany; and failing this, that she be released and the prize master and crew be interned for the remainder of the war.

Accept, etc.,

ROBERT LANSING.

Part XII.

INTERFERENCES BY BELLIGERENTS WITH MAILS.

The Secretary of State to Ambassador W. H. Page.

[Telegram.]

Department of State,
Washington, January 4, 1916.

Department advised that British customs authorities removed from Danish steamer *Oscar Second* 734 bags parcel mail en route from United States to Norway, Sweden, and Denmark; that British port authorities have removed from Swedish steamer *Stockholm* 58 bags parcel mail en route Gothenburg, Sweden, to New York; that 5,000 packages of merchandise, American property, have been seized by British authorities on the Danish steamer *United States* on her last trip to the United States; that customs authorities at Kirkwall, on December 18, seized 597 bags of parcel mail from steamer *Frederich VIII* manifested for Norway, Sweden, and Denmark. Other similar cases might be mentioned, such as that of the steamer *Heligolav.* Department inclined to regard parcel post articles as subject to same treatment as articles sent as express or freight in respect to belligerent search, seizure, and condemnation. On the other hand, parcel post articles are entitled to the usual exemptions of neutral trade, and the protests of the Government of the United States in regard to what constitutes the unlawful bringing in of ships for search in port, the illegality of so-called blockade by Great Britain, and the improper assumption of jurisdiction of vessels and cargoes apply to commerce using parcel post service for the transmission of commodities. Please bring this matter of parcel post formally to the attention of the British Government.

The Department is further informed that on December 23 the entire mails, including sealed mails and presumably the American diplomatic and consular pouches, from the United States to the Netherlands were removed by British authorities from the Dutch steamer *New Amsterdam;* that on December 20 the Dutch vessel *Noorder Dyke* was deprived

at the Downs of American mail from the United States to Rotterdam, and that these mails are still held by British authorities. Other similar instances could be mentioned, as the cases of the steamers *Rotterdam* and *Noordam*. The Department can not admit the right of British authorities to seize neutral vessels plying directly between American and neutral European ports without touching at British ports, to bring them into port, and, while there, to remove or censor mails carried by them. Modern practice generally recognizes that mails are not to be censored, confiscated, or destroyed on high seas, even when carried by belligerent mail ships. To attain same end by bringing such mail ships within British jurisdiction for purposes of search and then subjecting them to local regulations allowing censorship of mails can not be justified on the ground of national jurisdiction. In cases where neutral mail ships merely touch at British ports, the Department believes that British authorities have no international right to remove the sealed mails or to censor them on board ship. Mails on such ships never rightfully come into the custody of the British mail service, and that service is entirely without responsibility for their transit or safety.

As a result of British action, strong feeling is being aroused in this country on account of the loss of valuable letters, money orders, and drafts, and foreign banks are refusing to cash American drafts, owing to the absence of any security that the drafts will travel safely in the mails. Moreover, the detention of diplomatic and consular mail is an aggravating circumstance in a practice which is generally regarded in this country as vexatiously inquisitorial and without compensating military advantage to Great Britain. Please lay this matter immediately before the British Government in a formal and vigorous protest and press for a discontinuance of these unwarranted interferences with inviolable mails. Impress upon Sir Edward Grey the necessity for prompt action in this matter.

LANSING.

The French Ambassador to the Secretary of State.

[Translation.]

FRENCH EMBASSY,
Washington, April 3, 1916.

MR. SECRETARY OF STATE: My Government informs me that several neutral powers, the United States among them, have raised certain ob-

jections in regard to the action which the allies had to decide they must take with respect to mail matter on account of the fraud and violence exercised in that line by their enemies.

After long toleration those acts became so numerous and aggravated that it was no longer possible to acquiesce in their being indefinitely carried on. Hence the provisions which the allied Governments consider to be warranted by both the circumstances and the texts but which have nevertheless given rise to the above-mentioned objections.

These objections have been carefully examined and the French and English Governments have, in common accord, set forth in the inclosed memorandum the result of the said examination.

In transmitting, by order of my Government, that paper to Your Excellency, I am instructed to express to you the hope that you will kindly recognize the weight of the arguments therein presented in regard to an action which, besides, never was circumscribed by absolute rules of limitation. In your telegram of January 4, last, to the American ambassador at London and thereafter made public, Your Excellency only specified that: "Modern practice generally recognizes that mails are not to be censored, confiscated, or destroyed on high seas, even when carried by belligerent mail ships."

If, even before late events, those practices were not unanimously followed, Your Excellency will judge whether the arguments and facts set forth in the inclosed note do not amply justify, as we believe they do, our refraining from complying with them at present.

My instructions, on the other hand, warrant my assuring Your Excellency that precise instructions are issued not to subject innocent neutral mails and, of course, neutral diplomatic pouches to avoidable delay.

Be pleased, etc., JUSSERAND.

[Inclosure—Translation.]

MEMORANDUM RELATIVE TO POSTAL CORRESPONDENCE ON THE HIGH SEAS.

February 15, 1916.

The treatment of mail correspondence carried by sea has, in the course of the present war, been the object of various uncertainties, has occasioned some confusion, and at times given rise to criticisms which, for the sake of international relations and neutral commerce, the allied Governments deem it advisable to dispel.

It has always been and is the paramount object of postal services to receive, carry, and distribute written correspondence or missive letters.

By degrees recourse was had to the same services for the transmission of printed documents, then samples, valuables, and finally, under the name of "post parcels," almost every kind of merchandise, provided only that certain conditions were met in respect of weight, bulk, and packing.

It is also known that, when bearing postage stamps, any sealed wrapper, irrespective of its contents, weight, or bulk, may be mailed and is treated as a letter by the postal administrations.

The reflex action of the war on that state of things suggests the following remarks:

At the time of the second conference of The Hague in 1907, the Imperial German Government argued that the telegraph offering belligerents much quicker and safer means of communication than the post, there was no longer any interest in regarding, as theretofore, postal correspondence as apt to prove contraband by analogy and in disturbing its transmission through seizure and confiscation. Their confidence won by a proposition that looked so pacific, the other powers concurred. Article I of the eleventh Convention of The Hague of 1907 stipulates, as is known, that thenceforward postal correspondence on the high seas is "inviolable."

A first remark must be made with respect to the "post parcels."

The shipment of merchandise by "parcel post" is a mode of shipment and transportation analogous to shipment and transportation on way bills or bills of lading, with this difference, that the transportation is undertaken by the mail service, which moreover sometimes turns it over to common carriers, as is the case in France.

In no wise do such "parcels" constitute "letters" or "correspondence" or "despatches," and they are clearly not withdrawn in any way from the exercise of the rights of police, supervision, visitation, and eventual seizure which belong to belligerents as to all cargoes on the high seas.

This was shown notably in a communication of the Post Office Department of the United States addressed on April 8, 1915, to the French authorities and transmitting a statement in conformity therewith from the commander of the *Prinz Eitel Friedrich*, a vessel of the Imperial German Navy, regarding the post parcels shipped on the French mail steamer *Floride*, which the first-named cruiser had captured. (See Exhibit I.)

The allied Governments have also adopted this view, which in their opinion is fully founded in law and superabundantly justified by the facts.

Among many other examples it will be sufficient to cite: 1,302 post parcels, containing together 437.510 grams of india rubber for Hamburg (steamers *Tijuca, Bahia, Jaguaribe, Maranhao, Acre, Olinda, Para, Brazil*); or again, 69 post parcels, containing 400 revolvers for Germany via Amsterdam (S. S. *Gelria*).

As regards the forwarding of letters, wrappers, envelopes, and others entrusted to the postal services and generally contained in the mail bags of the post office of the countries which send them forth, the allied Governments bring the following consideration to the notice of the neutral Governments:

Between December 31, 1914, and December 31, 1915, the German or Austro-Hungarian naval authorities destroyed, without previous warning or visitation, 13 mail ships (see Exhibit 2) with the mail bags on board, coming from or going to neutral or allied countries, without any more concern about the inviolability of the despatches and correspondence they carried than about the lives of the inoffensive persons aboard the ships.

It has not come to the knowledge of the allied Governments that any protest touching postal correspondence was ever addressed to the Imperial Governments.

Under dates of August 11, 17, and 18, 1915, the neutral mail steamers *Iris* (Norwegian), *Haakon, VII* (Norwegian), *Germania* (Swedish) had the mail bags they carried from and to all places seized on the high seas by the German naval authorities; the letters and correspondence were censored by the German authorities, as proven by the photograph herein inclosed by way of illustration (Exhibit 3).[1]

The allied Governments understand that subsequently the Imperial German Government, while announcing its intention to desist from such seizures, declared that the said seizures were and would be fully warranted in its opinion. According to the Imperial German Government, the eleventh Convention of The Hague of 1907, not having been ratified by all the powers at present engaged in the war, would be inapplicable.

Finally the supervision within the territories of the allies of various mail bags shipped on mail steamers that call at certain ports in the said territories more recently disclosed the presence in the wrappers, envelopes, and mail matter of contraband articles particularly sought after by the enemy, and notably: On board the S. S. *Tubantia*, arriving in

[1] Not printed.

Europe, 174½ pounds of india rubber, of which 101 pounds of the Para, highest grade, and seven parcels of wool; on board the S. S. *Medan*, seven parcels of crude rubber. That same supervision, exercised under the same conditions on mail bags from Europe which at first sight might have been supposed to contain nothing but correspondence, uncovered in the bags put on board the single mail steamer *Zaandyjk* (Dutch) not less than 368 parcels of miscellaneous goods.

The following letter from the German firm of G. Vogtman and Co., dated from Hamburg, No. 16, Glockengiesserwall, December 15, 1915, is particularly instructive:

[Translation.]

For some time past we have been receiving regularly from Para invoices of crude india rubber, and you might turn your attention to that line of business. The shipments are made in the shape of "Samples without value," registered, about 200 parcels in every mail, each containing about 320 grams of rubber, net. The trouble of doing up the parcels and the high cost of postage are amply covered by the high price commanded by the commodity here.

It is known that on December 15, 1915, crude india rubber, which the German State took all up, was worth about 25 marks per kilog, and, as the Hamburg merchant remarked, "ein guter verdienst nicht ausgeschlossen ist" (a handsome profit is not barred out).

Hostile traffic, shut out of the mastery of the seas, thus resorted to hide in mail matter in order to get through all kinds of merchandise, contraband of war even included, apparently by imposing on the post office department of the neutral states.

From a legal standpoint, the right of belligerents to exercise police and supervision powers over vessels and particularly over what they carry has never, to the knowledge of the allied Governments, been subject to exceptions, not any more in regard to mail bags than in regard to any other cargo; nay more, as late as 1907 the letters and despatches themselves could be seized and confiscated.

By the eleventh Convention of The Hague and for the reasons above stated, the signatory powers waived the right to so seize despatches and declared postal correspondence to be inviolable.

The said inviolability only detracted from the public law as far as "correspondence" -that is to say, despatches or "missive letters" - are concerned, because, as we have seen, it was thought, rightfully or wrongfully, that belligerents having in the telegraph a better medium of correspondence, correspondence by mail was of no interest in warfare.

The result is, on the one hand, that inviolability does not apply to any mail matter that is not "correspondence"—that is to say, "missive letters"—and, on the other hand, that this inviolability would be given a wider scope than it possesses if it were regarded as exempting from any supervision goods and articles shipped by mail, even though they were contraband of war.

Under these conditions, the allied Governments announce:

1. That from the standpoint of their right of visitation and eventual arrest and seizure, merchandise shipped in post parcels needs not and shall not be treated otherwise than merchandise shipped in any other manner.

2. That the inviolability of postal correspondence stipulated by the Eleventh Convention of The Hague of 1907 does not in any way affect the right of the allied Governments to visit and, if occasion arise, arrest and seize merchandise hidden in the wrappers, envelopes, or letters contained in the mail bags.

3. That true to their engagements and respectful of genuine "correspondence," the allied Governments will continue, for the present, to refrain on the high seas from seizing and confiscating such correspondence, letters, or despatches, and will insure their speediest possible transmission as soon as the sincerity of their character shall have been ascertained.

EXHIBIT 1.

POST OFFICE DEPARTMENT
SECOND ASSISTANT POSTMASTER GENERAL,
DIVISION OF FOREIGN MAILS,
Washington, April 8, 1915.

I have the honor to inform you that the German auxiliary cruiser *Prinz Eitel Friedrich* delivered to the post-master of Newport News, Va., on March 12, 144 mail bags for places in South America which had been transhipped from the French steamer *Floride* to the said cruiser before it sank the steamer. The despatches, which appeared to be intact, were sent to the New York office, whence they were forwarded to destination in the same condition and at the first opportunity.

In delivering to the officials at Newport News the aforesaid despatches the commander of the *Prinz Eitel Friedrich* declared that the post parcels on board the steamship *Floride* had been regarded as merchandise and not as correspondence; that is the reason why he did not

have them taken out of the *Floride* as the other mail matter was, but allowed them to sink with the vessel, basing his action on the Declaration of London, according to which parcels are merchandise and not correspondence.

I further inform you that the New York Post Office advised the Bordeaux office of these facts by means of a check slip.

Exhibit 2.

Mails destroyed by enemies from December 31, 1914, to December 31, 1915.

Names of ships.	Tonnage.	Dates.	Enemy ships.	Remarks.
1. *Highland Brae*	7,634	Dec. 31, 1914	*Kaiser Wilhelm.*	Mails and post parcels from Buenos Aires, Santiago, and Montevideo.
2. *Tokomaru* . . .	6,084	Jan. 30, 1915	Torpedoed by a German submarine.	Parcels and printed matter from New Zealand.
3. *Aguila*	2,114	Mar. 27, 1915	. . . . . do	Mail for Madeira and the Canary Islands.
4. *Falaba*	4,806	Mar. 28, 1915	. . . . . do	Mail and post parcels for West Africa.
5. *Lusitania* . . .	30,396	May 6, 1915	. . . . . do	United States mail.
6. *Candidate* . . .	5,858	May 7, 1915	. . . . . do	Post parcels for Jamaica.
7. *Arabic*	15,801	Aug. 19, 1915	. . . . . do	Mail for the United States, Canada, etc.
8. *Hesperian* . . .	10,920	Sept. 4, 1915	. . . . . do	Mail and post parcels for the United States and Canada.
9. *Silver Ash* . . .	3,753	Oct. 6, 1915	(?)	Mail of His British Majesty's ships.
10. *Linkmoor* . . .	4,306	Sept. 20, 1915	(?)	Do.
11. *Persia*	7,964	Dec. 29, 1915	Torpedoed . .	Mail and post parcels for the Near East.
12. *Ville de la Ciotat* (French).	6,390	Dec. 24, 1915	Sunk by a German submarine.	Far East mail.
13. *Author*	3,496	(?)	(?)	Africa mail.

The British Ambassador to the Secretary of State.

No. 85.] BRITISH EMBASSY,
Washington, April 3, 1916.

SIR: I have the honour, by direction of Sir Edward Grey, His Majesty's Principal Secretary of State for Foreign Affairs, to transmit to you herewith a memorandum[1] stating the contentions of His Majesty's Government and the French Government in regard to their right to detain and examine parcels and letter mails on neutral vessels.

I have, etc.,

CECIL SPRING RICE.

The Secretary of State to the British Ambassador.[2]

No. 1186.] DEPARTMENT OF STATE,
Washington, May 24, 1916.

EXCELLENCY: I have the honor to acknowledge receipt of Your Excellency's note of April 3, last, transmitting a memorandum dated February 15, 1916, and communicated in substance to the American Ambassador in London on February 28, in which are stated the contentions of the British and French Governments in regard to the right to detain and examine parcel and letter mails *en route* by sea between the United States and Europe.

After a discussion of the use of the mails for the transmission of "parcels" and of the limitations to be placed on "inviolable mail," the joint memorandum of February 15 closes with the following assertions:

1. That from the standpoint of their right of visitation and eventual arrest and seizure, merchandise shipped in post parcels needs not and shall not be treated otherwise than merchandise shipped in any other manner.

2. That the inviolability of postal correspondence stipulated by the Eleventh Convention of The Hague of 1907 does not in any way affect the right of the allied Governments to visit and, if occasion arise, arrest and seize merchandise hidden in the wrappers, envelopes, or letters contained in the mail bags.

3. That true to their engagements and respectful of genuine "correspondence," the allied Governments will continue, for the present, to refrain on the high seas

[1] Not printed. Identical with memorandum transmitted with the note of the French Ambassador, April 3, 1916, *supra*, p. 406.

[2] Same to the French Ambassador.

from seizing and confiscating such correspondence, letters, or despatches, and will insure their speediest possible transmission as soon as the sincerity of their character shall have been ascertained.

In reply the Government of the United States desires to state that it does not consider that the Postal Union Convention of 1906 necessarily applies to the interference by the British and French Governments with the oversea transportation of mails of which the Government of the United States complains. Furthermore, the allied powers appear to have overlooked the admission of the Government of the United States that post parcels may be treated as merchandise subject to the exercise of belligerent rights as recognized by international law. But the Government of the United States does not admit that such parcels are subject to the "exercise of the rights of police supervision, visitation, and eventual seizure which belongs to belligerents as to *all cargoes* on the high seas," as asserted in the joint note under acknowledgment.

It is noted with satisfaction that the British and French Governments do not claim, and, in the opinion of this Government, properly do not claim, that their so-called "blockade" measures are sufficient grounds upon which to base a right to interfere with all classes of mail matter in transit to or from the central powers. On the contrary, their contention appears to be that, as "genuine correspondence" is under conventional stipulation "inviolable," mail matter of other classes is subject to detention and examination. While the Government of the United States agrees that "genuine correspondence" mail is inviolable, it does not admit that belligerents may search other private sea-borne mails for any other purpose than to discover whether they contain articles of enemy ownership carried on belligerent vessels or articles of contraband transmitted under sealed cover as letter mail, though they may intercept at sea all mails coming out of and going into ports of the enemy's coasts which are effectively blockaded. The Governments of the United States, Great Britain, and France, however, appear to be in substantial agreement as to principle. The method of applying the principle is the chief cause of difference.

Though giving assurances that they consider "genuine correspondence" to be "inviolable," and that they will, "true to their engagements," refrain "on the high seas" from seizing and confiscating such correspondence, the allied Governments proceed to deprive neutral Governments of the benefits of these assurances by seizing and confiscating mail from vessels in port instead of at sea. They compel neutral ships without

just cause to enter their own ports or they induce shipping lines, through some form of duress, to send their mail ships *via* British ports, or they detain all vessels merely calling at British ports, thus acquiring by force or unjustifiable means an illegal jurisdiction. Acting upon this enforced jurisdiction, the authorities remove all mails, genuine correspondence as well as post parcels, take them to London, where every piece, even though of neutral origin and destination, is opened and critically examined to determine the "sincerity of their character," in accordance with the interpretation given that undefined phrase by the British and French censors. Finally the expurgated remainder is forwarded, frequently after irreparable delay, to its destination. Ships are detained *en route* to or from the United States or to or from other neutral countries, and mails are held and delayed for several days and, in some cases, for weeks and even months, even though not routed to ports of North Europe *via* British ports. This has been the procedure which has been practiced since the announcement of February 15, 1916. To some extent the same practice was followed before that date, calling forth the protest of this Government on January 4, 1916. But to that protest the memorandum under acknowledgment makes no reference and is entirely unresponsive. The Government of the United States must again insist with emphasis that the British and French Governments do not obtain rightful jurisdiction of ships by forcing or inducing them to visit their ports for the purpose of seizing their mails, or thereby obtain greater belligerent rights as to such ships than they could exercise on the high seas; for there is, in the opinion of the Government of the United States, no legal distinction between the seizure of mails at sea, which is announced as abandoned, and their seizure from vessels voluntarily or involuntarily in port. The British and French practice amounts to an unwarranted limitation on the use by neutrals of the world's highway for the transmission of correspondence. The practice actually followed by the allied powers must be said to justify the conclusion, therefore, that the announcement of February 15 was merely notice that one illegal practice had been abandoned to make place for the development of another more onerous and vexatious in character.

The present practice is a violation not only of the spirit of the announcement of February 15, but of the rule of The Hague Convention upon which it is concededly based. Aside from this, it is a violation of the prior practice of nations which Great Britain and her allies have in the past assisted to establish and maintain, notwithstanding the state-

ment in the memorandum that "as late as 1907 the letters and despatches themselves could be seized and confiscated." During the war between the United States and Mexico the United States forces allowed British steamers to enter and depart from the port of Vera Cruz without molesting the mails intended for inland points. During the American Civil War Lord Russell endeavored to induce the United States to concede that "Her Majesty's mails on board a private vessel should be exempted from visitation or detention." This exemption of mails was urged in October, 1862, in the case of British mails on board the *Adela*. On October 31 Secretary Seward announced that "public mails of any friendly or neutral power duly certified or authenticated as such shall not be searched or opened but be put as speedily as may be convenient on the way to their designated destination." In accordance with this announcement, the Government of the United States, in the case of the British steamship *Peterhoff*, which had been seized with her mails against the protest of Her Majesty's Government, had her mails forwarded to destination unopened.

The same rule was followed by France, as I am advised, in the Franco-Prussian War of 1870; by the United States in the Spanish-American War of 1898; by Great Britain in the South African War, in the case of the German mail steamers *Bundesrath* and *General;* by Japan and substantially by Russia in the Russo-Japanese War of 1904. And even in the present war, as the memorandum of Great Britain and France states, their enemy, Germany, has desisted from the practice of interfering with neutral mails, even on board belligerent steamers. This is illustrated by the case of the French steamer *Floride*, captured by the auxiliary cruiser *Prinz Eitel Friedrich*, cited by the British and French Governments in support of their argument regarding parcel mails. In this case the letter mails of the *Floride*, amounting to 144 sacks, were forwarded to their destination by the commander at the first opportunity upon arriving in the United States. It would seem, therefore, to be conclusively established that the interferences with mails of which this Government justly complains are wrong in principle and in practice.

The arbitrary methods employed by the British and French Governments have resulted most disastrously to citizens of the United States. Important papers which can never be duplicated, or can be duplicated only with great difficulty, such as United States patents for inventions, rare documents, legal papers relating to the settlement of estates, powers of attorney, fire insurance claims, income tax returns, and similar

matters have been lost. Delays in receiving shipping documents have caused great loss and inconvenience by preventing prompt delivery of goods. In the case of the MacNiff Horticultural Company, of New York, large shipments of plants and bulbs from Holland were, I am informed, frozen on the wharves because possession could not be obtained in the absence of documents relating to them which had been removed from the *New Amsterdam*, *Oosterdyk*, and *Rotterdam*. Business opportunities are lost by failure to transmit promptly bids, specifications, and contracts. The Standard Underground Cable Company, of Pittsburgh, for example, sent by mail a tender and specifications for certain proposed electrical works to be constructed in Christiania; after several weeks of waiting, the papers having failed to arrive, the American company was told that the bids could not be longer held open and the contract was awarded to a British competitor. Checks, drafts, money orders, securities, and similar property are lost or detained for weeks and months. Business correspondence relating to legitimate and *bona fide* trade between neutral countries, correspondence of a personal nature, and also certain official correspondence, such as money-order lists and other matter forwarded by Government departments, are detained, lost, or possibly destroyed. For instance, the Postmaster General informs me that certain international money-order lists from the United States to Germany, Greece, and other countries, and from Germany to the United States, sent through the mails, have not reached their destination, though despatched several months ago. It was necessary to have some of these lists duplicated and again dispatched by the steamship *Frederick VIII*, which sailed from New York on April 19, and from which all the mails intended for Germany have been taken and held in British jurisdiction. As a further example of the delay and loss consequent upon the British practice, the Postmaster General also sends me a copy of a letter from the British Postal Administration admitting that the mails were removed from the steamer *Medan* in the Downs on January 30, last, and not forwarded until some time "between the 2d of February and the 2d of March," and that 182 bags of these mails "were lost during transmission to Holland on the 26th day of February by the Dutch steamship *Mecklenburg*." The *Medan* arrived safely at Rotterdam a day or two after she left the Downs. Numerous complaints similar to the foregoing have been received by this Government, the details of which are available, but I believe I have cited sufficient facts to show the unprecedented and vexatious nature of the interference with

mails persisted in by British and French authorities. Not only are American commercial interests injured, but rights of property are violated and the rules of international law and custom are palpably disregarded. I can only add that this continuing offense has led to such losses to American citizens and to a possible responsibility of the United States to repair them, that this Government will be compelled in the near future to press claims for full reclamation upon the attention of His Majesty's Government and that of the French Republic.

The principle being plain and definite, and the present practice of the Governments of Great Britain and France being clearly in contravention of the principle, I will state more in detail the position of the Government of the United States in regard to the treatment of certain classes of sealed mails under a strict application of the principle upon which our Governments seem to be in general accord. The Government of the United States is inclined to the opinion that the class of mail matter which includes stocks, bonds, coupons, and similar securities is to be regarded as of the same nature as merchandise or other articles of property and subject to the same exercise of belligerent rights. Money orders, checks, drafts, notes, and other negotiable instruments which may pass as the equivalent of money are, it is considered, also to be classed as merchandise. Correspondence, including shipping documents, money-order lists, and papers of that character, even though relating to "enemy supplies or exports," unless carried on the same ship as the property referred to, are, in the opinion of this Government, to be regarded as "genuine correspondence," and entitled to unmolested passage.

The Government of the United States, in view of the improper methods employed by the British and French authorities in interrupting mails passing between the United States and other neutral countries and between the United States and the enemies of Great Britain, can no longer tolerate the wrongs which citizens of the United States have suffered and continue to suffer through these methods. To submit to a lawless practice of this character would open the door to repeated violations of international law by the belligerent powers on the ground of military necessity of which the violator would be the sole judge. Manifestly a neutral nation can not permit its rights on the high seas to be determined by belligerents or the exercise of those rights to be permitted or denied arbitrarily by the Government of a warring nation. The rights of neutrals are as sacred as the rights of belligerents and must be as strictly observed.

The Government of the United States, confident in the regard for international law and the rights of neutrals, which the British and French Governments have so often proclaimed and the disregard of which they have urged so vigorously against their enemies in the present war, expects the present practice of the British and French authorities in the treatment of mails from or to the United States to cease and belligerent rights, as exercised, to conform to the principle governing the passage of mail matter and to the recognized practice of nations. Only a radical change in the present British and French policy, restoring to the United States its full rights as a neutral power, will satisfy this Government.

I have, etc.,

ROBERT LANSING.

The British Ambassador to the Secretary of State.

No. 307.] BRITISH EMBASSY,

Washington, October 12, 1916.

SIR: In conformity with instructions received from Viscount Grey, of Fallodon, His Majesty's Principal Secretary of State for Foreign Affairs, I have the honor to transmit herewith copy of the memorandum,[1] agreed upon by His Majesty's Government and the French Government, embodying the joint reply of the Allies to your note of May 24 regarding the examination of the mails.

I have, etc.,

CECIL SPRING RICE.

[Inclosure—Translation.]

Confidential.

1. By a letter of May 24 last the Secretary of State of the United States was pleased to give the views of the American Government on the memorandum of the Allied Governments concerning mails found on merchant ships on the high seas.

2. The Allied Governments have found that their views agreed with those of the Government of the United States in regard to the Postal Union Convention, which is recognized on both sides to be foreign to the questions now under consideration; post parcels respectively recognized as being under the common rule of merchandise subject to the

[1] Identic memorandum received from the French Embassy.

exercise of belligerent rights, as provided by international law; the inspection of private mails to the end of ascertaining whether they do not contain contraband goods, and, if carried on an enemy ship, whether they do not contain enemy property. It is clear that that inspection which necessarily implies the opening of covers so as to verify the contents could not be carried on on board without being attended with great confusion, causing serious delay to the mails, passengers, and cargoes, and without causing for the letters in transit errors, losses, or at least great risk of miscarriage. That is the reason why the Allies had mail bags landed and sent to centers provided with the necessary force and equipment for prompt and regular handling. In all this the Allied Governments had no other object in view than to limit, as far as possible, the inconvenience that might result for innocent mails and neutral vessels from the legitimate exercise of their belligerent rights in respect to hostile correspondence.

3. The Government of the United States acknowledges it agrees with the Allied Governments as to principles, but expresses certain divergent views and certain criticism as to the methods observed by the Allies in applying these principles.

4. These divergencies of views and criticisms are as follows:

5. In the first place, according to the Government of the United States, the practice of the Allied Governments is said to be contrary to their own declaration, in that, while declaring themselves unwilling to seize and confiscate genuine mails on the high seas, they would obtain the same result by sending, with or without their consent, neutral vessels to Allied ports, there to effect the seizures and confiscations above referred to, and thus exercise over those vessels a more extensive belligerent right than that which is theirs on the high seas. According to the Government of the United States there should be, in point of law, no distinction to be made between seizure of mails on the high seas, which the Allies have declared they will not apply for the present, and the same seizure practiced on board ships that are, whether willingly or not, in an Allied port.

6. On this first point and as regards vessels summoned on the high seas and compelled to make for an Allied port, the Allied Governments have the honor to advise the Government of the United States that they have never subjected mails to a different treatment according as they were found on a neutral vessel on the high seas or on neutral vessels compelled to proceed to an Allied port, they have always ac-

knowledged that visits made in the port after a forced change of course must in this respect be on the same footing as a visit on the high seas, and the criticism formulated by the Government of the United States does not therefore seem warranted.

7. As to ships which of their own accord call at Allied ports it is important to point out that in this case they are really "voluntarily" making the call. In calling at an Allied port the master acts, not on any order from the Allied authorities, but solely carries out the instructions of the owner; neither are those instructions forced upon the said owner. In consideration of certain advantages derived from the call at an Allied port, of which he is at full liberty to enjoy or refuse the benefits, the owner instructs his captain to call at this or that port. He does not, in truth, undergo any constraint. In point of law the Allied Governments think it a rule generally accepted, particularly in the United States (U. S. *vs.* Dickelman, U. S. Supreme Court, 1875; 92 U. S. Rep., 520; Scott's cases, 264), that merchant ships which enter a foreign port thereby place themselves under the laws in force in that port, whether in time of war or of peace, and when martial law in is force in that port. It is therefore legitimate in the case of a neutral merchant ship entering an Allied port for the authorities of the Allied Governments to make sure that the vessel carries nothing inimical to their national defense before granting its clearance. It may be added that the practice of the Germans to make improper use of neutral mails and forward hostile correspondence, even official communications dealing with hostilities, under cover of apparently unoffensive envelopes mailed by neutrals to neutrals, made it necessary to examine mails from or to countries neighboring Germany under the same conditions as mails from or to Germany itself; but as a matter of course, mails from neutrals to neutrals that do not cover such improper uses have nothing to fear.

8. In the second place, according to the Government of the United States the practice now followed by the Allied Governments is contrary to the rule of convention 11 of The Hague, 1907, which they declare their willingness to apply, and would, besides, constitute a violation of the practice heretofore followed by nations.

9. In regard to the value to be attached to the eleventh convention of The Hague, 1907, it may first of all be observed that it only refers to mails found at sea and that it is entirely foreign to postal correspondence found on board ships in ports. In the second place, from the

standpoint of the peculiar circumstances of the present war, the Government of the United States is aware that that convention, as stated in the memorandum of the Allies, has not been signed or ratified by six of the belligerent powers (Bulgaria, Italy, Montenegro, Russia, Serbia, and Turkey); that for that very reason Germany availed itself of Article IX of the convention and denied, so far as it was concerned, the obligatory character in these stipulations; and that for these several reasons the convention possesses in truth but rather doubtful validity in law. In spite of it all, the Allied Governments are guided in the case of mails found on board ships in ports by the intentions expressly manifested in the conferences of The Hague sanctioned in the preamble to convention 11, and tending to protect pacific and innocent commerce only. Mails possessing that character are forwarded as quickly as circumstances permit. In regard to mails found on vessels at sea the Allied Governments have not for the present refused to observe the terms of the convention reasonably interpreted; but they have not admitted and can not admit that there is therein a final provision legally binding them, from which they could not possibly depart. The Allied Governments expressly reserve to themselves the right to do so in case enemy abuses and frauds, dissimulations and deceits should make such a measure necessary.

10. As for the practice previously followed by the powers in the time of former wars, no general rule can easily be seen therein prohibiting the belligerents from exercising on the open seas, as to postal correspondence, the right of supervision, surveillance, visitation, and, the case arising, seizure and confiscation, which international law confers upon them in the matter of any freight outside of the territorial waters and jurisdiction of the neutral powers.

11. On the high seas, under international law, it is for the belligerents to seek and prevent transportation or other acts by which neutral vessels may lend their coöperation and assistance to hostile operations of the enemy. Now, as has long ago been observed (among others, Lord Stowell in *The Atalanta*, 6 Robinson, 440, 1, English Prize Cases, 607; Scott's Cases, 780), a few lines of a letter delivered to an enemy may be as useful as or even more useful than a cargo of arms and ammunition to promote his war operations. The assistance rendered in such cases by the vessel carrying such a letter is as dangerous for the other belligerent as the assistance resulting from the transportation of military cargoes. As a matter of fact, experience has in the course of

the present war demonstrated the truth of this remark. Hostile acts which had been projected in mails have failed. Dangerous plots, from which even neutral countries are not safe at the hands of the enemy, were discovered in the mails and baffled. Finally the addressees of certain letters which the Allies had seen fit to respect have evidenced a satisfaction the hostile character of which removed every doubt as to the significance of those letters.

12. The report adopted by the Conference of The Hague in support of convention 11 leaves little doubt as to the former practice in the matter: "The seizure, opening the bags, examination, confiscation if need be, in all cases delay or even loss, are the fate usually awaiting mail bags carried by sea in time of war." (Second Peace Conference, Acts and Documents, vol. 1, p. 266.)

13. The American note of May 24, 1916, invokes the practice followed by the United States during the Mexican and Civil Wars; the practice followed by France in 1870; by the United States in 1898; by Great Britain in the South African War; by Japan and Russia in 1904; and now by Germany.

14. As regards the proceedings of the German Empire toward postal correspondence during the present war, the Allied Governments have informed the Government of the United States of the names of some of the mail steamers whose mail bags have been—not examined to be sure—but purely and simply destroyed at sea by the German naval authorities. Other names could very easily be added—the very recent case of the mail steamer *Hudikswall* (Swedish), carrying 670 mail bags, may be cited.

15. The Allied Governments do not think that the criminal habit of sinking ships, passengers, and cargoes, or abandoning on the high seas the survivors of such calamities is, in the eyes of the Government of the United States, any justification for the destruction of the mail bags on board; and they do not deem it to the purpose to make a comparison between these destructive German proceedings and the acts of the Allies in supervising and examining enemy correspondence.

16. As to the practice of Russia and of Japan, it may be permitted to doubt that it was at variance with the method of the Allied Governments in the present war.

17. The imperial Russian decree of May 13–25, 1877, for the exercise of the right of visit and capture, provides, paragraph 7: "The following acts which are forbidden to neutrals are assimilated to contraband of

war: The carrying * * * of despatches and correspondence of the enemy." The Russian imperial decree of September 14, 1904, reproduces the same provision. The procedure followed in regard to the mail steamers, and the prize decisions bear witness that public or private mails found on board neutral vessels were examined, landed, and, when occasion arose, seized.

18. Thus, in May and July, 1904, postal correspondence carried on the steamships *Osiris* (British) and *Prinz Heinrich* (German) was examined by the Russian cruisers to see whether it contained Japanese correspondence. Thus, again, in July, 1904, the steamer *Calchas* (British), captured by Russian cruisers, had 16 bags of mail that had been shipped at Tacoma by the postal authorities of the United States seized on board and landed and the prize court of Vladivostock examined their contents, which it was recognized it could lawfully do. (Russian Prize Cases, p. 139.)

19. As regards the practice of Japan, the Japanese rules concerning prizes, dated March 15, 1904, made official enemy correspondence, with certain exceptains, contraband of war. They ordered the examination of mail bags on mail steamers unless there was on board an official of the Post Office, making a declaration in writing and under oath that the bags contained no contraband; it was even added that no account should be taken of such a declaration if there existed grave suspicions. On the other hand, the Japanese Prize Court rules acknowledged the power of those courts in the examination of prize cases to examine letters and correspondence found on board neutral vessels. (Takahashi, "International Law Applied to Russo-Japanese War," p. 568.)

20. The French practice during the war of 1870 is found outlined in the naval instructions of July 26, 1870, under which official dispatches were on principle assimilated to contraband, and official or private letters found on board captured vessels were to be sent immediately to the Minister of Marine. Subsequently the circumstances of war permitted of the rule in additional instructions, under which, if the vessel to be visited was a mail steamer having on board an official of the post office of the Government whose flag she displayed, the visiting officer might be content with that official's declaration regarding the nature of the dispatches.

21. During the South African War the British Government was able to limit its intervention in the forwarding of postal correspondence and mails as far as the circumstances of that war allowed, but it did

not cease to exercise its supervision of the mails intended for the enemy.

22. As to the practice followed by the Government of the United States during the American Civil War, particularly in the *Peterhoff* case, cited in the American memorandum of May 24, 1916, the following instructions issued in that case by the Secretary of State of the United States do not seem to imply anything but the forwarding of correspondence which has been found to be innocent: "I have, therefore, to recommend that in this case, if the district attorney has any evidence to show the mails are simulated and not genuine, it shall be submitted to the court; if there be no reasonable grounds for that belief, then that they be put on their way to their original destination." (Letter of Mr. Seward, Secretary of State, to Mr. Welles, Secretary of the Navy, April 15, 1863; VII Moore's Dig., p. 482.)

23. Finally, as regards the free transit granted to mails by the United States during the Mexican War, one may be allowed to recall the circumstances under which this proceeding was adopted. By a letter dated May 20, 1846, notified on the following 10th of July, the commander of the United States cruiser *St. Mary*, announced the blockade of the port of Tampico. Although that measure authorized, without a doubt, the seizure and confiscation of all correspondence for the blockaded port, the American naval authorities, on learning the circumstances of the case, declared "Neutral noncommercial mail packets are free to enter and depart," and it was even added that "Mexican boats engaged exclusively in fishing will be allowed to pursue their labour unmolested." (British State Papers, vol. 35, 1846–47.)

24. It seems difficult to compare the blockade of the port of Tampico in 1846 with the measures taken by the Allies in the course of this war to reduce the economic resistance of the German Empire, or to find in the method then adopted by the United States a precedent which condemns the practice now put in use by the Allied Governments.

25. To waive the right to visit mail steamers and mail bags intended for the enemy seemed in the past (Dr. Lushington, "Naval Prize Law," Introd., p. vii) a sacrifice which hardly could be expected of belligerents. The Allied Governments have again noted in their preceding memorandum how and why, relying on certain declarations of Germany, they had thought in the course of the Second Peace Conference of 1907 they could afford to waive that right. They have also drawn the attention of the Government of the United States to the fraudulent use Germany

hastened to make of this waiver of the previous practices above mentioned.

26. After pointing to a certain number of specific cases where American interests happened to be injured from the postal supervision exercised by the British authorities, forming the subject of the special memorandum of the Government of His Majesty, dated July 20, 1916, the Government of the United States was pleased to make known its views as to what is to be and is not to be recognized as not possessing the charter of postal correspondence.

27. In this respect the Government of the United States admits that shares, bonds, coupons, and other valuable papers; money orders, checks, drafts, bills of exchange, and other negotiable papers, being the equivalent of money, may, when included in postal shipments, be considered as of the same nature as merchandise and other property, and therefore be also subjected to the exercise of belligerent rights.

28. Yet the American memorandum adds that correspondence, including shipping documents, lists of money orders, and documents of this nature, even though referring to shipments to or exports by the enemy, must be treated as mail and pass freely unless they refer to merchandise on the same ship that is liable to capture.

29. As regards shipping documents and commercial correspondence found on neutral vessels, even in an Allied port and offering no interest of consequence as affecting the war, the Allied Governments have instructed their authorities not to stop them but to see that they are forwarded with as little delay as possible. Mail matter of that nature must be forwarded to destination as far as practicable on the very ship on which it was found or by a speedier route, as is the case for certain mails inspected in Great Britain.

30. As for the lists of money orders to which the Government of the United States assigns the character of ordinary mail, the Allied Governments deem it their duty to draw the attention of the Government of the Government of the United States to the following practical consideration:

31. As a matter of fact, the lists of money orders mailed from the United States to Germany and Austria-Hungary correspond to moneys paid in the United States and payable by the German and Austro-Hungarian post offices. Those lists acquaint those post offices with the sums that have been paid there which in consequence they have to pay to the addressees. In practice, such payment is at the disposal of such

addressees and is effected directly to them as soon as those lists arrive and without the requirement of the individual orders having come into the hands of the addressees. These lists are thus really actual money orders transmitted in lump in favor of several addressees. Nothing, in the opinion of the Allied Governments, seems to justify the liberty granted to the enemy country so to receive funds intended to supply by that amount its financial resisting power.

32. The American memorandum sees fit firmly to recall that neutral and belligerent rights are equally sacred and must be strictly respected. The Allied Governments, so far as they are concerned, wholly share that view. They are sincerely striving to avoid an encroachment by the exercise of their belligerent rights on the legitimate exercise of the rights of innocent neutral commerce, but they hold that it is their belligerent right to exercise on the high seas the supervision granted them by international law to impede any transportation intended to aid their enemy in the conduct of the war and to uphold his resistance. The rights of the United States as a neutral power can not, in our opinion, imply the protection granted by the Federal Government to shipments, invoices, correspondence, or communications in any shape whatever having an open or concealed hostile character and with a direct or indirect hostile destination, which American private persons can only effect at their own risk and peril. That is the very principle which was expressly stated by the President of the United States in his neutrality proclamation.

33. Furthermore, should any abuses, grave errors, or derelictions committed by the Allied authorities charged with the duty of inspecting mails be disclosed to the Governments of France and Great Britain, they are now as they ever were ready to settle responsibility therefor in accordance with the principles of law and justice which it never was and is not now their intention to evade.

Part XIII.

REMOVAL OF ENEMY SUBJECTS FROM AMERICAN VESSELS.

The Secretary of State to Ambassador W. H. Page.

[Telegram—Paraphrase.]

Department of State,
Washington, February 23, 1916.

Mr. Lansing informs Mr. Page that the Department is advised by American consuls in Hongkong, Nagasaki, and Shanghai, and by the owners of the American steamship *China*, that on the 18th instant the British cruiser *Laurentic* stopped the *China* on the high seas, about 10 miles from the entrance to the Yangtzekiang, boarded her with an armed party, and, despite the captain's protest, removed from the vessel 28 Germans, 8 Austrians, and 2 Turks, including physicians and merchants, and took them to Hongkong, where they are detained as prisoners in the military barracks. As it is understood that none of the men taken from the *China* were incorporated in the armed forces of the enemies of Great Britain, the action of the *Laurentic* must be regarded by this Government as an unwarranted invasion of the sovereignty of American vessels on the high seas. After the notice given to the British Government of this Government's attitude in the *Piepenbrink* case [1] in March, last, which was based upon the principle contended for by Earl Russell in the *Trent* case, this Government is surprised at this exercise of belligerent power on the high seas far removed from the zone of hostile operations. Ambassador Page is directed to present this matter to the Government of Great Britain at once and to insist vigorously that if facts are as reported, orders be given for the immediate release of the persons taken from the *China*.

[1] For the correspondence in the Piepenbrink case, see Special Supplement, July, 1915, pp. 353–360.

Ambassador W. H. Page to the Secretary of State.

No. 3259.] AMERICAN EMBASSY,
London, March 17, 1916.

SIR: With reference to the Department's telegram No. 2924, of February 23, 1916, protesting against the removal of 38 enemy subjects of Great Britain by the British ship *Laurentic* from the steamship *China* on the high seas off the entrance to the Yangtse River, I have the honor to inclose herewith a copy of a note, dated the 16th instant, from the Foreign Office in reply to the representations I made to Sir Edward Grey in the premises.

I have, etc., WALTER HINES PAGE.

[Inclosure.]

The British Secretary of State for Foreign Affairs to Ambassador W. H. Page.

FOREIGN OFFICE,
March 16, 1916.

YOUR EXCELLENCY: His Majesty's Government have given the most careful consideration to the memorandum which Your Excellency was good enough to communicate to me on the 24th ultimo, conveying a protest from the United States Government against the removal of 38 enemy subjects by His Majesty's ship *Laurentic* from the steamship *China* on the high seas off the entrance to the Yangtse River, and I now have the honour to offer the following observations as an expression of the views of His Majesty's Government in regard to the matter.

The latest attempt to define by common agreement the limits within which a belligerent naval power may remove enemy persons from neutral ships on the high seas is represented by Article 47 of the Declaration of London, 1909. This article permitted the arrest of such persons if "embodied in the armed forces of the enemy," without regard to the destination of the ship on which they were found travelling. The commentary on Article 45 of the Declaration contained in the Report of the Drafting Committee of the London Naval Conference states that on practical, not legal, grounds it was agreed that the term "embodied in the armed forces of the enemy" should be considered as not including reservists not yet attached to their military units.

At the beginning of the war His Majesty's Government adhered to

Articles 45 and 47 of the Declaration of London, as interpreted by the Report of the Drafting Committee. They took this step as a matter of convenience, being at liberty, as the Declaration was an unratified instrument, to cancel at any time their adherence, provided always that their subsequent action did not conflict with the general principles of international law. When the German authorities began to remove able-bodied persons of military age from the occupied portions of France and Belgium, His Majesty's Government, as indicated in the circular note which I had the honour to address on the 4th November, 1914, to the representatives of neutral powers in London, felt that they could no longer accept the restrictive interpretation placed for practical reasons on the terms of Article 47 of the Declaration of London by the Report of the Drafting Committee, and that they must arrest all enemy reservists found on board neutral ships on the high seas, no matter where they might be met.

I am aware that the United States Government, after their suggestion early in the war that the belligerent powers should adopt the Declaration of London in its entirety as a code of international naval law, did not find general acceptance, have declared that they no longer consider the Declaration as being in force. I have referred at some length to the bearings of the Declaration on the position of His Majesty's Government in this question, because Article 47 represents the latest, if not the only, attempt to arrive at a definition, by common consent of the chief maritime nations of the law in regard to the matter. The attempt was necessarily conditioned by the experience of previous wars, and the definition was reached after weighing the claims and the convenience of neutral shipping against the importance to belligerent powers, as shown by the experience of previous wars, of preventing enemy subjects from proceeding to their destination and pursuing the hostile purposes for which they were organized.

It is evident, however, from the foregoing observations that the principle (often contended for in the past by certain continental nations) that there are certain classes of persons who are not protected by a neutral flag on the high seas and may therefore without any invasion of the sovereign rights of the neutral be removed from a neutral ship is now generally admitted. The carriage of such persons may in some cases amount to unneutral service, rendering the ship liable to condemnation; but even when this is not so, the removal of such persons from a neutral ship by a belligerent does not justify any complaint by the neu-

tral state concerned. The question in the present case, is therefore, whether the character and position of the persons removed from the *China* were such as to bring the case within the principle enunciated above.

The present war has shown that the belligerent activity of the enemies of this country is by no means confined to the actual theatres of military and naval operations and that there is no limit to the methods by which Germany in particular seeks to secure a victory for her arms. The hostile efforts of the enemy have shown, and continue to show, themselves on neutral soil in many parts of the world in political intrigues, revolutionary plots, schemes for attacking the sea-borne trade of this country and her allies, endeavours to facilitate the operations of ships engaged in this task, and in criminal enterprises of different kinds directed against the property of neutrals and belligerents alike. War has in effect been extended far beyond the bounds of the area in which opposing armies manœuvre, and an unscrupulous belligerent may inflict the deadliest blows on his enemy in regions remote from actual fighting. It may be recalled that a certain Lieut. Robert Fay, of the German Army, was reported in the press last autumn to have been detected experimenting with bombs designed to destroy merchant ships leaving America and operating in the interests of the enemies of Germany. He was said to have admitted that he was sent by the German authorities to the United States expressly for this purpose. His Majesty's Government are not aware what degree of truth there may be in this story, but numerous incidents in America and elsewhere have shown that the facts may be as stated and may be typical.

It is then evidently of the greatest importance for a belligerent power to intercept on the high seas not only mobilized members of the opposing army who may be found travelling on neutral ships, but also those agents whom the enemy sends to injure his opponent abroad or whose services he enjoys without having himself commissioned them. Practical considerations from the belligerents' point of view have changed, and the change necessarily implies a modification in the precise description of enemy subjects whom it is lawful to arrest, supposing such a precise description can be said to have existed in any binding form.

I may add that the action of the United States Government in forwarding requests for safe conducts for agents of states at war with this country whose actions had been such that their continued presence in the United States could no longer be tolerated affords a strong indi-

cation that the right to remove certain classes of persons from neutral ships can, in the circumstances of this present war, not be confined to persons embodied in the armed forces of a belligerent.

I may add for the confidential information of the Government of the United States that from actual occurrences and from reliable information received it has been definitely established that the Germans resident in Shanghai have been engaged for some time past in the collection of arms and ammunition, both for clandestine transmission to India and, if possible, for the arming of a ship to play the part of a Far Eastern *Mœwe*. His Majesty's Government were able to cope with this activity to a considerable extent and obtained the arrest of various German agents caught in the act of attempting to smuggle arms out of Shanghai; further, the Germans became aware that His Majesty's Government knew of their plots. The commander-in-chief, China station, received information that owing to this fact the Germans were planning to shift the centre of their activity from Shanghai to Manila. Subsequently he was definitely informed that 35 Germans had planned to leave Shanghai in the steamship *China* and proceed to Manila.

His Majesty's ships were sent to patrol off the mouth of the Yangtze with the view of intercepting this party. The date of the *China's* departure was more than once postponed, but she eventually sailed, was intercepted by His Majesty's ship *Laurentic* and found to have on board Germans and Austrians corresponding to those concerning whom information as mentioned above had been received. The *Laurentic* therefore had no hesitation in removing them. The next ostensible port of call of the *China* was Nagasaki, a convenient place at which to transfer to another vessel proceeding to Manila.

It may be added that subsequent information fully confirms that the movement of the body of Germans in question was an integral part of the plot referred to above.

I do not think it will be disputed that persons of this description must be placed within the category of individuals who may, without any infraction of the sovereignty of a neutral state be removed from a neutral vessel on the high seas. The object of their journey was to find another neutral asylum in which they might continue their operations against the interests of this country. The acts which they desired to perform upon the soil of the United States were such as possibly to compromise the neutrality of that country or to constitute an offence against its criminal laws. They were in effect persons whose past ac-

tions and future intentions deprived them of any protection from the neutral flag under which they were sailing.

In Your Excellency's note reference is made to the case of the *Trent*. I venture to hope that the preceding observations show clearly that the present case is of an entirely different nature to that on which the United States Government rely. At the date when the *Trent* case occurred no agreement had been reached as to the claim put forward by certain countries that a belligerent is entitled to remove certain classes of individuals from a neutral ship without bringing the vessel in for adjudication in the prize court; since then, as I have pointed out above, a considerable measure of agreement had been reached on this point. In any case the nature of the persons concerned in the episode of the *Trent* was entirely different from that of the individuals removed from the *China*. Messrs. Slidell and Mason were proceeding to Europe, according to their contention, as the diplomatic representatives of a belligerent; at that time the suggestion that the functions of a diplomatic representative should include the organizing of outrages upon the soil of the neutral country to which he was accredited was unheard of, and the removal of the gentlemen in question could only be justified on the ground that their representative character was sufficient to bring them within the classes of persons whose removal from a neutral vessel was justifiable. The distinction between such persons and German agents whose object is to make use of the shelter of a neutral country in order to foment risings in British territory, to fit out ships for the purpose of preying on British commerce, and to organize outrages in the neutral country itself is obvious.

It is hardly necessary for me to state that it is far from the wish and intention of His Majesty's Government to take any action involving an invasion of the sovereign rights of the United States Government; the above observations will have made it clear that in the view of my Government no such invasion was involved in the action of His Majesty's ship *Laurentic*, and I feel confident that after the foregoing explanations in regard both to the general question involved and to the removal of enemy subjects from the *China* the United States Government will not feel disposed further to contend that this action was not justified.

I have, etc.,

E. Grey.

Part XIV.

ESCAPE OF OFFICERS AND MEN FROM GERMAN SHIPS INTERNED IN THE UNITED STATES.

The Secretary of State to the German Ambassador.

DEPARTMENT OF STATE

No. 1661.] *Washington, November 16, 1915.*

EXCELLENCY: With reference to the German vessels and crews now interned in American ports, I have the honor to call your attention to the following facts relating to the escape from time to time of certain paroled officers and men from these vessels.

On October 10, 1915, six officers, Vizesteuermann Heinrich Hoffman, Heinrich Ruedebusch, Wilhelm Forstreuter, Erich Biermann, and Ing. Aspirants Julius Lustfeld and Walter Fisher, of the German cruiser *Kronprinz Wilhelm*, interned at Norfolk, Virginia, received permission to go ashore and to return by eight a. m. October 11th. These officers have not been seen since, and are supposed to have departed on board the yacht *Eclipse*, which was purchased by Vizesteuermann Hoffman shortly before their departure.

On September 29, 1915, Marine Stabsarzt, Dr. Kruger Kroneck, and Lieutenant zur See Koch, of the German cruiser *Prinz Eitel Friedrich*, were given permission to go on a visit to New York City and Niagara Falls and to return to their ship on October 16th. These officers, however, have not returned to their ship and were seen in the Pennsylvania Railroad Station, New York City, on October 17th.

The German cruiser *Prinz Eitel Friedrich* arrived in American jurisdiction on March 10th, 1915, and was interned on April 9th, 1915. On March 10th, the Commanding Officer was directed to allow none of his officers or crew on shore for the present. The Commander acknowledged the receipt of this notice and stated that he would act accordingly. On March 12th the Commanding Officer asked permission for his officers and men to go ashore, if they did not leave Newport News. On March

17, 1915, two days prior to the granting of the Commander's request, the Executive Officer, i. e., the second officer in command, Otto Brauer, left the ship. The Department now has reliable information that Brauer has returned to Germany and is on duty on board the Cruiser *Lutzow* at Danzig.

Doctor Nolte was granted leave of absence from the *Prinz Eitel Friedrich* to go to Newport News and Old Point Comfort, Virginia, and return on May 13th last. Doctor Nolte has not, as yet, returned to his Ship.

On or about June 14, 1915, Herman Deike, Engineer Officer of the *Locksun*, interned at Honolulu, left his ship and is yet absent in violation of his parole.

In view of the apparent disregard of these members of the complements of the interned vessels at Norfolk for their word of honor while on parole, the Navy Department, on October 14, 1915, was under the necessity of ordering that no officers or men be allowed to leave the ships until the absent officers and seamen had returned.

Notwithstanding this order, on October 15, 1915, two members of the crew of the *Kronprinz Wilhelm* attempted to board the Dutch steamship *Maar Tensdyk* at Newport News, in an endeavor to escape. Seaman Sturm was apprehended and his companion, Seaman Kasper, returned to the *Kronprinz Wilhelm* of his own volition. Also, on November 12, 1915, Fireman Thiery was found absent from the *Prinz Eitel Friedrich* at muster, having escaped from his ship.

The incidents related have occurred notwithstanding the fact that at the time of the internment of these vessels each Commanding Officer gave a pledge for "himself, officers, and crews not to commit any unneutral acts and not to leave limits prescribed in paroles." I therefore regret to have to inform Your Excellency that the United States Government regards the actions of these men as contrary to its express instructions and as breaches of the honorable conduct to be expected of officers and men of visiting and interned ships of war of a belligerent nation, and that consequently the Government has been forced to discontinue the custom of paroling the interned officers and men on their honor and otherwise to circumscribe the very liberal privileges which they have heretofore been allowed to enjoy.

It will be recalled that during the Russo-Japanese war, when the Russian Ship *Lena* was interned by United States Authorities on the Pacific coast, three officers of that ship escaped and returned to Russia;

and that upon the Government of the United States calling the matter to the attention of the Russian Government it immediately caused the escaped officers to return to American jurisdiction, where they were interned for the remainder of the war.

This precedent this Government regards as in accord with the best practice of nations and applicable to the cases which I have had the honor to present in this note.

I have no doubt, therefore, that upon Your Excellency's calling these incidents to the attention of the Imperial German Government, that Government will promptly direct that Otto Brauer and any others of the men mentioned who may now be within German jurisdiction, or who may hereafter come within such jurisdiction, be promptly returned to this country for internment with their respective ships.

Accept, etc.,

ROBERT LANSING.

The Secretary of State to Ambassador Gerard.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, November 17, 1915.

Mr. Gerard is informed that the Department of State in a note dated November 16, 1915, called the attention of the German Ambassador at Washington to the escape at intervals of certain paroled German officers and men from ships interned in United States ports. The German Ambassador was also given full facts, giving officers' names and the circumstances under which they escaped. The ambassador's attention was called to the case of the escape during the war between Russia and Japan of three officers of an interned Russian vessel, and that the American Government called the matter to the attention of the Government of Russia, who immediately caused the return of the escaped officers to American jurisdiction. The Ambassador was informed that this precedent is regarded as in accord with the practice of nations in the past and as applicable to the cases which are cited in the Department's note. The Department also stated that it had no doubt that the Ambassador would bring the facts promptly to the German Government's attention and that the German Government would direct the prompt

return to the United States for internment with their respective vessels of the escaped officers and men who may now be or who may hereafter come within German jurisdiction.

The German Ambassador to the Secretary of State.

J. Nr. A 7545.] GERMAN EMBASSY,
Washington, November 22, 1915.

MY DEAR MR. SECRETARY: The Commanding Officer of H. M. S. *Prinz Eitel Friedrich*, informs me that the officers and crews of the interned German Cruisers at Portsmouth Va., are to be photographed by an order of the Commandant of the Navy Yard at said place apparently as a means of preventing further escapes. Captain Thierichens for obvious reasons before complying has asked for further instructions. I realize that the deplorable escapes of the past, although inspired by patriotic motives, justify strict methods of surveillance, but believing that effective measures already have been taken to insure further escapes I would appreciate it greatly if these officers and crews could be spared the humiliation of having their photographs taken.

I am, etc.,

J. BERNSTORFF.

The Secretary of State to the German Ambassador.

DEPARTMENT OF STATE,
Washington, November 23, 1915.

MY DEAR MR. AMBASSADOR: I am in receipt of your letter of the 22d in regard to the photographing of the crews of the interned German cruisers at Portsmouth, Virginia.

I have had a conversation with the Secretary of the Navy on the subject and we have reached the conclusion that in view of the objections raised by the Commanding Officers of the cruisers the photographing of the crews will not take place at the present time.

I can assure you that it was with no purpose of humiliating the Germans who are interned that this plan was proposed, but you must realize that the violation of paroles by certain of the officers and members

of the crews of these vessels has caused much embarrassment to this Government. I am convinced that you, as well as the Commanding Officers, are desirous that the honor of the German Navy should be preserved, and that the authorities here should apprehend any who violate their word. As the most expedient and practical plan of accomplishing this was to have the portraits of those who might escape published, it was thought well to photograph all the members of the crew as well as the officers. I can not see, in view of what has occurred, why there should be any objection to this being done, but since it is so we will take other means to prevent a repetition of the escapes, although I consider that the redoubling of the vigilance of our Naval authorities is even more humiliation to the interned than to be photographed.

I am, etc.,

ROBERT LANSING.

The German Ambassador to the Secretary of State.

[Translation.]

J. Nr. A 7586.] GERMAN EMBASSY,
Washington, November 24, 1915.

MR. SECRETARY OF STATE: Pursuant to your kind note No. 1661 of the 16th instant, I first called in the commanding officers of H. M. S. *Kronzprinz Wilhelm* and *Prince Eitel Friedrich* for an explanation of the disappearance of some members of their crews. It appears from their report that the following petty officers left their ships in a dingey at about 4 o'clock on Sunday, the 10th of October: Quartermaster Ruedebusch, Hoffmann, Biermann, Forstreuter, Engineer Aspirants Lustfeld and Fischer. The commanding officer of H. M. S. *Kronprinz Wilhelm* reported the occurrence to the Commandant of the Newport News Navy Yard on the 15th ultimo. How the fugitives made good their escape could not be ascertained. Marine Staff surgeon Dr. Kruger-Kroneck and Lieutenant Koch have not returned from the leave that was granted them. The clandestine disappearance of Dr. Kruger-Kroneck is all the more unaccountable as he, being a physician, might have obtained release from internment in the same way as it was accommodatingly granted to a number of surgeons of the interned ships. Press reports indicate that Lieutenant Koch is now a prisoner in England. The

present whereabouts of all the other absconders is not known to me or their superior officers.

Captain Lieutenant Bauer was still on board H. M. S. *Prinz Eitel Friedrich* on March 16, but was no longer there on the 17th. Until then the commanding officer had no other directions than that of letting no one go on shore and had accordingly notified his officers and men that there was no shore leave to be had for the time being. Not until the 19th of March did he receive permission for his crew to get leave to go to certain defined places on land: "Officers on parole and men under guard of American soldiers." Captain Lieutenant Koch therefore could not have broken his parole, but merely disobeyed orders. There can be no question, therefore, of his being sent back to the United States on the above-stated ground.

As for the seamen, Sturm and Kasper, they left the *Kronprinz Wilhelm* as early as October 14; their attempt to escape took place before the time when the Navy Department's order that no one should leave the ship became known to the ship as October 15, it being dated October 14.

I believe the foregoing particulars will prove of some help in clearing up the matter, which I have reported to my Government.

Accept, etc.,

J. BERNSTORFF.

Ambassador W. H. Page to the Secretary of State.

[No. 2708.] AMERICAN EMBASSY,
London, December 16, 1915.

SIR: I have the honor to acquaint you that on December 3rd I received from H. M. Foreign Office a note, a copy of which I attach herewith,[1] requesting that enquiries be made of the German Government concerning the identity of one Lieutenant zur See Henry Koch, who recently escaped from internment at Norfolk. This enquiry was accordingly transmitted to the Embassy at Berlin on December 7th, with the request that the desired particulars might be obtained.

On December 6th Lieutenant Koch, who is now detained at Edinburgh, addressed a communication to the Consul there who immediately transmitted it to this Embassy. Copies of Koch's letter and

[1] Not printed.

the Consul's letter of transmittal were presented to H. M. Foreign Office on December 13th, and I have the honor to transmit herewith copies of these two communications.

No reply has been made by this Embassy to the suggestion made in Lieutenant Koch's letter to the Consul at Edinburgh.

I have, etc.,

WALTER HINES PAGE.

[Inclosure 1.]

Consul Fleming to Ambassador W. H. Page.

AMERICAN CONSULATE,
Edinburgh, December 8, 1915.

SIR: I have the honor to report that Lieut. Henry Koch, German naval officer, is a prisoner of war in Edinburgh Castle. He was taken off the Danish S. S. "*Tyskland*," bound from New York to Copenhagen, at Lerwick, Shetland Islands, on the 14th November, 1915. Lieut. Koch was an officer on the interned German auxiliary cruiser "*Prinz Eitel Friedrich*," lying at Portsmouth, Virginia, and fled in the early part of October, with the intention of reaching Germany *via* Denmark. Lieut. Koch shipped on the S. S. "*Tyskland*" as a member of the crew.

A letter addressed to this Consulate by Lieut. Koch is herewith enclosed.

I have, etc.,

RUFUS FLEMING.

[Inclosure 2.]

Lieutenant Koch to Consul Fleming.

EDINBURGH, *December 6, 1915.*

DEAR SIR: I was officer on board of the interned German auxiliary cruiser "*Prinz Eitel Friedrich*" lying in Portsmouth, Va., have flought out of the American internment and have been taken from a neutral ship in England. If it is possible that the United States Government grants to me indemnity because of my flight, I beg the United States Embassy, at the same time representing my own Government in this country, to ask the British Government for its agreement that I dare return on my own costs to United States of America and into the American internment.

I think to be condemned to inactivity in the same degree in America as in England, especially after an attempt of flight. Further I would not cause any expenses either to the British or to the American Government.

Yours truly,

KOCH.

The Secretary of State to the British Ambassador.

DEPARTMENT OF STATE,
Washington, December 22, 1915.

MY DEAR MR. AMBASSADOR: I beg to acknowledge the receipt of your personal note of December 18, 1915, stating that you are informed by your Government that there is now in detention as a prisoner of war in Great Britain an individual who gives his name as Lieutenant zur See Henry Koch, and states that he has escaped from internment at Norfolk, Virginia. You add that the British authorities are anxious, if possible, to obtain confirmation of this prisoner's statements as to his identity and rank.

In reply you are advised that Koch was interned with the *Prinz Eitel Friedrich*, that on September 29, 1915, he and Dr. Kruger Kroneck were given permission to visit New York, to return to their ship on October 16, and that they never returned to the cruiser. Koch is described as being thirty years of age and five feet eight inches tall, having blue eyes, good teeth, no beard or moustache, speaking fair English, and weighing about one hundred and sixty pounds. At the time of the internment of the vessel, the commanding officer gave a pledge for "himself, officers, and crew not to commit unneutral acts and not to leave limits prescribed in paroles."

I am, etc.,

ROBERT LANSING.

The Secretary of State to Ambassador Gerard.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, December 22, 1915.

Mr. Gerard is directed to inquire at the German Foreign Office as to whether the matter of the escape of interned German officers and men

has been called to the attention of the Foreign Office by the German Ambassador in Washington, and if so to urge that the representations of the Department of State to the German Ambassador be promptly replied to by the German Government. A report by cable is requested.

The Secretary of State to Ambassador W. H. Page.

No. 3046.] DEPARTMENT OF STATE,
Washington, January 7, 1916.

SIR: The Department has received your despatch No. 2708, of December 16, 1915, in which you enclose copy of a Foreign Office note requesting that enquiries be made of the German Government concerning the identity of one Lieutenant zur See Henry Koch, who recently escaped from internment at Norfolk.

In reply, you are informed that the Department has upon request given the description of Lieutenant Koch, escaped intern, to the British Ambassador here for purposes of identification. The Consul at Edinburgh should reply to the Lieutenant's letter by stating that, in view of the breach of parole involved in his escape from internment, no representations will be made to the British Government looking to his return to the United States.

I am, etc.,

ROBERT LANSING.

Ambassador Gerard to the Secretary of State.

No. 2496.] AMERICAN EMBASSY,
Berlin, February 21, 1916.

SIR: With reference to my telegram No. 3508 of February 19, 1916, I have the honor to transmit herewith to the Department a copy and translation of the Foreign Office's Note, dated February 16, 1916, regarding the escape of officers and men from the German auxiliary cruisers *Kronprinz Wilhelm* and *Prinz Eitel Friedrich*, at present interned in American ports.

I have, etc.,

For the Ambassador:
J. C. GREW.

[Inclosure—Translation.]

No. III a 2610.
31366.

FOREIGN OFFICE,
Berlin, February 16, 1916.

The undersigned has the honor to inform His Excellency, the American Ambassador, Mr. James W. Gerard, in answer to the communication of December 24, 1915, regarding the escape of officers and men from the German auxiliary cruisers *Kronprinz Wilhelm* and *Prinz Eitel Friedrich*, at present interned in American ports, that the matter has been brought to the attention of the German Naval Administration. According to the investigations made by the latter, the commanders of the two auxiliary cruisers, unfortunately, did not sufficiently instruct their officers and crews regarding the significance of the "assurance" ("Versicherung") given by them. Moreover, the expression "pledge" chosen by Rear Admiral Beatty in his letter to the commanders does not conform absolutely to the idea of the "word of honor" (Ehrenwort). The persons who escaped, therefore, were obviously convinced that they would not, through their act, render themselves guilty of a breach of their word of honor.

The German Government acknowledges the fact, however, that the members of the crew—and only they—who escaped after the "assurance" ("Versicherung") of the commanders had been given on April 13 and May 5, 1915, respectively, were in the wrong towards the American Government, and that they are to be sent back to their vessels. Of the persons mentioned in the note of the American Government to the German Ambassador at Washington of November 16, 1915, No. 1661, the following are therefore concerned: Marine-Stabsarzt Krüger-Kroneck, Leutnant zur See Koch, Dr. Nolte, Vize-Steuermann der Reserve Hoffmann, Vize-Steuermann der Reserve Ruedebusch, Vize-Steuermann der Reserve Forstreuter, Vize-Steuermann der Reserve Biermann, Ingenieur-Aspirant der Reserve Lustfeld, Ingenieur-Aspirant der Reserve Fischer, Heizer Thierry.

Of these persons, only Stabsarzt Krüger-Kroneck returned so far to Germany. He will be instructed to return to his vessel as soon as the American Government has obtained safe-conduct for him from the hostile Governments.

The German Government states expressly that by the return on board his ship of Stabsarzt Krüger-Kroneck the question is not touched whether, after his return, his release later on may not have to be granted

in accordance with the Hague Convention regarding the application of the rules of the Geneva Convention to naval warfare.

In requesting to bring the foregoing to the attention of the American Government, the undersigned avails himself, etc.,

ZIMMERMANN.

The Secretary of State to Ambassador Gerard.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, March 9, 1916.

Mr. Gerard is informed that the reply of the German Foreign Office regarding the escape of officers and men of the German Cruisers at present interned in ports of the United States was referred to the Navy Department. In reply the position is taken by the Navy Department that the *Kronprinz Wilhelm* and the *Prinz Eitel Friedrich* sought refuge in an American port and agreed to be interned. Therefore, the obligation of remaining with their vessels rested wholly with the officers of those vessels.

That these officers are not cognizant of the principles of international law can not be assumed. Promises were given in writing by the captains of the two vessels for themselves, the officers, and the crews of the vessels that they would in no way violate American neutrality during their internment. It seems to be indicated by the answer of the German naval administration that it does not appreciate fully the seriousness of the obligation assumed thus by their naval representatives on the two vessels in question to remain within the assigned limits with the minimum of trouble to the Government of the country in which they are interned. They were considered as guests of the American Government and not as prisoners of war, and as such guests permission was given them to leave the navy yard and to visit on leave any part of the United States. Lieutenant zur See Koch and Doctor Kruger Kroneck, after having availed themselves of the permission mentioned to leave the limits of their internment, failed to return as they were unquestionably bound to do. Furthermore, money was supplied by Doctor Kroneck with which the yacht *Eclipse* was purchased by six officers of the *Kronprinz Wilhelm* who escaped from the jurisdiction of the Government

of the United States. Should the return of Doctor Kroneck be effected the Government of the United States should not consent to his release under the application to naval officers of the Geneva Convention rules, as on account of considerable sickness on the interned ships his presence on board is necessary. No mention is made in the reply of the German Foreign Office of Otto Brauer, the Executive Officer of the ship *Prinz Eitel Friedrich*, who left that ship after the Captain of the vessel had been requested by the Government of the United States not to give permission to his officers or men to go on shore, which request was acknowledged by the Captain who stated that he would act in accordance therewith. It can not be conceived by the Navy Department that the Executive Officer, the next in command, was ignorant of this request of the Government of the United States. The departure of Otto Brauer, the executive officer, was taken against this Government's express direction, and the Navy Department is of the opinion that he should be returned to the jurisdiction of the Government of the United States. Also in the case of the engineer officer, Herman Dieke, of the *Locksun*, interned at Honolulu, who, while on parole, absented himself, no reply is made. The full reply of the Navy Department is being sent by mail to Mr. Gerard, who is directed to present the views of the Government of the United States, and to say that the Department would be glad to have an early reply.

Part XV.

STATUS OF AMERICAN CONSULAR OFFICERS IN BELLIGERENT TERRITORY OCCUPIED BY ENEMY TROOPS.

Ambassador Gerard to the Secretary of State.

No. 308.] American Embassy,
Berlin, December 4, 1914.

Sir: I have the honor to transmit to you herewith a copy in translation of a Note Verbale, received from the Imperial German Foreign Office, stating the position of the German Government, respecting the recognition of Consular Officers in territory under occupation by the German Army.

I have, etc.

James W. Gerard.

[Inclosure—Translation.]

Nr. I c 16180
96680

Foreign Office,
Berlin, November 30, 1914.

NOTE VERBALE.

Now that the German Army has occupied various portions of enemy countries, the German Government considers the Exequaturs of the Consuls, formerly permitted to act in such districts, to have expired.

The Imperial Government would, however, be disposed to consider favorably any wishes of allied and neutral countries, respecting the establishment of consular offices in the districts in question, excepting, of course, those districts where military operations are still in course.

In Belgium consular activities in the provinces of East and West Flanders would accordingly not be permitted at present. With regard to the other parts of Belgium, consular officers would be permitted to act for the present in Brussels, Antwerp, and Liege, but not at other points.

The Imperial Government would not consider the issuance of formal Exequatur advisable; to consular officers, whose names are communicated to the Foreign Office, would simply be granted temporary recognition to enable them to act in their official capacity, under reserve of the usual investigations respecting their records.

In view of the peculiar circumstances contingent on military occupation, the Imperial Government would be grateful if only such persons should be nominated as are assuredly friendly to Germany or have at least neutral convictions.

In bringing the above to the attention of the Embassy, the Foreign Office has the honor respectfully to request that the American Government may be notified in the above sense. As the Embassy is aware, the German Government has already recognized Consul-General Diederich at Antwerp, assuming this to be the wish of the American Government.

The Belgian Minister to the Secretary of State.

[Translation.]

BELGIAN LEGATION,
Washington, December 28, 1914.

MR. SECRETARY OF STATE: I have just received the following cablegram from my Government:

The German Government has just notified the neutral powers of its intention to cancel the exequaturs granted by the Belgian Government to foreign consuls and to create but those consular posts at Brussels, Liege, and Antwerp, temporary recognition only being granted to those officers.

The Belgian Government has entered protest at Berlin, under Article 42 of the 4th Convention of The Hague, military occupation only confers upon the occupant State over the territory of the occupied State *de facto* possession, the right to cancel all exequaturs can not be derived from that title.

I have been officially instructed to notify Your Excellency of the Belgian Government's protest.

Be pleased to accept, etc.,

E. HAVENITH.

Ambassador Gerard to the Secretary of State.

No. 425.] AMERICAN EMBASSY,
Berlin, January 11, 1915.

SIR: With reference to my despatch No. 308 of December 4, 1914, I have the honor to transmit to you herewith a copy and translation of a Note Verbale, received from the Imperial German Foreign Office, dated January 3, 1915, and of a Note Verbale [1] addressed to the Imperial Foreign Office by the Royal Spanish Embassy at Berlin, relative to the protest of the Belgian Government against the position taken by the German Government, respecting the recognition of consular officers in territory under occupation by the German Army.

I have, etc.,

JAMES W. GERARD.

[Inclosure—Translation.]

II
2312 FOREIGN OFFICE,
Berlin, January 3, 1915.

NOTE VERBALE.

In supplement to its Note Verbale of November 30, 1914, No. Ic 16180, the Foreign Office has the honor to enclose herewith to the Embassy of the United States of America a copy of a Note Verbale, received from the Royal Spanish Embassy, which transmitted to the Imperial German Government a protest of the Belgian Government relative to the position of neutral consuls in Belgium:

The Imperial Government is obliged to consider that the protest of the Belgian Government is not well founded.

Article 42 of the IVth Hague Convention in particular is not capable of supporting the view of the Belgian Government. This article makes it obligatory on the occupant State only to maintain as far as possible public order in the occupied districts, but not to permit the officials of the enemy State to remain in office. Such officials cannot be tolerated, except as far as military considerations admit, and if the officials themselves are ready to comply with the regulations of the occupant State. If these principles are applied by analogy to the Consuls of neutral

[1] Not printed; substance stated in preceding document.

States, it results that they also cannot perform their public duties, except by consent of the occupant Power and to the extent allowed by it, inasmuch as the exequatur of the enemy is not binding on the occupant Power.

The Note Verbale of the Imperial Foreign Office of November 30, last, does not affect the rights of the Belgian Government in any way, but deals exclusively with the interests of the Imperial Government, which conceives it to be its right and its unalterable duty to regulate for the period of occupation the consular protection in the territory occupied by its Army. Moreover, this reregulation is primarily necessary in the interests of neutral nationals themselves. More than 300 consular representatives of the allied and neutral States were hitherto officially recognized in Belgium. By far the majority of them were honorary consuls of Belgian nationality, and of them a large number have left Belgium. It is beyond doubt that the Imperial Government, in the very interest of neutral nationals, can not hesitate to see to it that their consular protection is established securely and effectively, to which end it has, as a first step, requested the allied and neutral Governments, under date of November 30, 1914, to express their wishes.

The Foreign Office begs to request the good offices of the Embassy of the United States of America to the end that the above may be brought to the attention of its Government.

The Secretary of State to Ambassador Gerard.

[Telegram.]

DEPARTMENT OF STATE,
Washington, January 21, 1915.

Note verbale enclosed in your dispatch 308. You are instructed to present the following to the German Government:

The Government of the United States has received and given consideration to the Note Verbale of the Imperial Government dated November 30, 1914, in which it is stated that the German Army now having occupied various portions of enemy countries, the German Government

considers the Exequaturs of the Consuls, formerly permitted to act in such districts, to have expired. That the Imperial Government would, however, be disposed to consider favorably any wishes of allied and neutral countries respecting the establishment of consular offices in the districts in question, excepting, of course, those districts where military operations are still in course; and that the Imperial Government would not consider the issuance of formal Exequaturs advisable; to consular officers, whose names are communicated to the Foreign Office, would simply be granted temporary recognition to enable them to act in their official capacity, under reserve of the usual investigations respecting their records.

The Government of the United States, in view of the fact that consular offices are commercial and not political representatives of a government and that permission for them to act within defined districts is dependent upon the authority which is in actual control of such districts irrespective of the question of legal right, and further, in view of the fact that the consular districts, to which reference is made in the Note Verbale of the Imperial Government, are within the territory now under German military occupation, is not inclined at this time to question the right of the Imperial Government to suspend the exequaturs of the consular officers of the United States within the districts which are occupied by the military forces of the German Empire and subject to its military jurisdiction.

The Government of the United States notes that all the consular districts in Belgian territory occupied by the German military forces, excepting Brussels, Antwerp, and Liège, are considered by the Imperial Government to be within the zone of military operations and that within such districts, except those named, the Imperial Government will not permit consular officers to exercise their functions.

The Government of the United States in the circumstances assumes that the Imperial Government will raise no objection to the consular officers of the United States now stationed at Brussels, Antwerp, Liège, and other places similarly situated acting in their official capacity, and that, if the *de facto* authorities at those cities object on personal grounds to any of such officers continuing, the Government of the United States will be forthwith notified of such objection.

BRYAN.

The Secretary of State to the Belgian Minister.

DEPARTMENT OF STATE,
Washington, January 25, 1915.

SIR: I have received your note, No. 3465, of December 28, 1914, in which you refer to the notification of the neutral powers by the German Government of its intention to cancel the exequaturs granted by your Government to foreign consuls and to create but three consular posts, namely, Brussels, Liège, and Antwerp, only granting temporary recognition to the consular officers stationed at those places.

You state that your Government has entered a protest at Berlin under Article 42 of the Fourth Convention of The Hague, to the effect that military occupation only confers upon the occupant *de facto* possession, which does not carry with it the right to cancel exequaturs.

Accept, etc.,

W. J. BRYAN.

The Belgian Minister to the Secretary of State.

[Translation—Extracts.]

No. 898.] BELGIAN LEGATION,
Washington, February 13, 1915.

MR. SECRETARY OF STATE: I am instructed by the King's Government and have the honor to forward herewith to your Excellency a copy of the German Government's reply to the Belgian Government's protest, together with a copy of another note from the Belgian Government which the Spanish Government kindly undertook to deliver at Berlin.

I embrace this opportunity, etc.,

E. HAVENITH.

[Inclosure 1—Translation.]

The Foreign Office to the Royal Embassy of Spain.

SPANISH EMBASSY,
Berlin, January 3, 1915.

The Department of Foreign Affairs has the honor to answer the note verbale of the Royal Embassy of Spain of December 31 last as follows:

The Imperial Government is of opinion that the Belgian Govern-

ment's protest in the matter of the exequaturs of consuls in Belgian is groundless.

Article 42 of the IV Convention of The Hague, in particular does not support the views of the Belgian Government. Under that article the occupant Power is bound to maintain, as far as possible, public order in the occupied area; the article in no wise binds it to continue all officials in office. This, on the contrary, could only be done within the measure allowed by the military considerations of occupation and not on the mere condition that those officials will be ready to yield to the authority of the occupant Government. Those principles apply to neutral consuls, and those officers can only discharge their public duties if and as far as the occupant Power agrees, as the enemy's exequatur is not binding on that Power.

The circular note of the Imperial Government concerning consuls does not in any way touch upon the rights of the Belgian Government; it merely deals with the rights of Imperial Government which claims it as its inborn right and undisputable duty to regulate the consular protection of neutral subjects for the term of occupation. This new rule furthermore and foremost is required for the good of the neutral subjects themselves. Inasmuch as 300 representatives at least of the allied or neutral states were recognized in Belgium, most of them of Belgian nationality, many of them having left the country, it is plain that in the interest of the neutral subjects themselves it would not be well for the Imperial Government to delay giving its attention to assured and effective regulations for their protection.

[Inclosure 2—Translation.]

NOTE VERBALE.

Germany claimed, in her communication of December 5, that the occupant of an invaded country had the right to regard as "annulled" all exequaturs previously issued to Consuls in office by the lawful power of that country.

The claim is untenable.

By reason of the character of the occupant's power which flows from mere possession and is in no wise final, Article 43 of the IVth Convention of The Hague sanctions, in principle, the continuance of civil and administrative laws and, consequently, of existing conditions.

It is idle for Germany to invoke, in her note of January 3, military

and administrative considerations. These both may justify the withdrawal of the exequatur of a consul who should indulge in hostile acts or behave in a manner inconsistent with the duties of his office. But they can not warrant either a general right of cancellation as claimed by Germany nor her assuming to upset the whole Consular organization to reduce the number of consuls to three for each nation and to bar from consulates, on the sole ground that they are Belgians, men who have committed no act antagonistic to military interests and honestly acknowledged the occupant's rights as defined by The Hague Convention.

The German proposition, if accepted, would carry the consequence of throwing into a state of disastrous uncertainty the Consulates established in parts that are occupied one day and retaken the next.

Ambassador Gerard to the Secretary of State.

No. 664.] AMERICAN EMBASSY,
Berlin, March 12, 1915.

SIR: With reference to the Department's telegram No. 1044, dated January 21, 4 p. m., the substance of which was duly communicated to the Imperial Foreign Office, I have the honor to transmit to you herewith a copy in translation of the reply of the Foreign Office, dated March 9, 1915, on the subject of the consular representation of the United States in Belgium.

I have, etc., JAMES W. GERARD.

[Inclosure—Translation.]

No. I c. 2709/303000 FOREIGN OFFICE,
Berlin, March 9, 1915.

NOTE VERBALE.

The Foreign Office has the honor to convey its best thanks to the Embassy of the United States of America for the statement communicated with the esteemed Note Verbale of January 25, 1915, F. O. No. 2002.

The Foreign Office gladly takes the opportunity expressly to confirm that no objections are raised to the American consular representatives now stationed at Antwerp and Liège. These two officials have succeeded

under the trying conditions of the present time in establishing the most agreeable official relations with the authorities of occupation.

Mr. Watts, the Consul General at Brussels, is on leave of absence, and it would appear that he is not to return to his post. Should the Government of the United States propose to fill this post again, this intention would agree with the wishes of the Imperial Government and the military authorities in Belgium.

Although Ghent is still within the zone of military operations, and official consular activity there would therefore appear not to be desirable as yet, the Foreign Office would like to state at this time that no objections on personal grounds will be raised against Mr. Jansen, the Consul of the United States at that place.

Ambassador Penfield to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Vienna, November 13, 1915.

Ambassador Penfield reports that permission has been requested by Vice Consul Young, now at Cacak, Serbia, to return to Belgrade while it is within the military jurisdiction of Austria-Hungary, and a prompt ruling by the Department of State as to whether Vice Consul Young is subordinate to the Embassy at Vienna or the Legation at Bucharest is requested by Ambassador Penfield, who is convinced that intercommunication between an official in inner war zone and a neutral capital would not be permitted by military authorities.

Ambassador Penfield to the Secretary of State.

[Telegram—Extracts.]

AMERICAN EMBASSY,
Vienna, November 14, 1915.

"This Consulate leaves Cacak Friday for Belgrade. Please wire State Department to instruct me whether I shall join Serbian Government via Italy or remain in Belgrade. YOUNG."

PENFIELD.

The Secretary of State to Ambassador Penfield.

[Telegram.]

DEPARTMENT OF STATE,
Washington, November 17, 1915.

Under existing conditions Young should remain in Belgrade under your supervision. Give him appropriate instructions.

LANSING.

Ambassador Penfield to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Vienna, November 20, 1915.

Ambassador Penfield reports an informal discussion, of the status of Vice Consul Young at Belgrade, with members of the Ministry of Foreign Affairs of Austria-Hungary who desire to ascertain the preferences of the Department of State. Attention was called to the fact that the functions of Vice Consul Young lapsed *ipso facto* in his inclusion within Austro-Hungarian lines. Some friction with the military authorities was feared should he remain at Belgrade, although no intimation in that sense has been received by the Ministry. However, the Ministry wishes to accede, if possible, to the desires of the Department of State. Precedents of Consuls in Belgium and at Warsaw were cited. It was stated that in view of the care of foreign interests it would be useful to have an American consular officer at Belgrade. Ambassador Penfield promised to ascertain the views of the Department of State, and he suggests that Vice Consul Young might be attached to the American Consulate General at Budapest in order to regulate his status.

The Secretary of State to Ambassador Penfield,

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, November 23, 1915.

Mr. Lansing states that while recognizing that, as consuls are not political but commercial representatives, permission for the exercise

of functions by them within defined districts depends upon the authority actually controlling those districts, the Department of State assumed that it would be entirely agreeable to the Government of Austria-Hungary, the military forces of which are in control of Belgrade, to have American Vice Consul Young, who has charge of the Consulate of the United States, remain in Belgrade in charge of American as well as in charge of certain foreign interests in that part of Serbia under the military control of Austria-Hungary, especially since such a course would harmonize with the usual procedure and with the course which was followed concerning consuls in Belgium and in the City of Warsaw. Ambassador Penfield is informed that he may again emphasize the foregoing and indicate that inconvenience to American interests and also to foreign interests in care of the American Consulate would likely result in the withdrawal of the Consulate from Belgrade, and he is directed to express the hope of the United States Government that the American Consulate may be permitted to remain at Belgrade. It is not apparent that objection to Vice Consul Young on personal grounds exists.

It is the belief of the Department of State that the peculiar status of Belgrade makes the placing of the Consulate in the jurisdiction of the Consulate General at Budapest inexpedient and that unless positive reasons for a different course exist it should remain detached under the supervision of the Embassy.

Ambassador Penfield to the Secretary of State.

[Telegram—Paraphrase—Extract.]

AMERICAN EMBASSY,
Vienna, November 23, 1915.

Following telegram received through Ministry Foreign Affairs for transmission to Department:

Arrived Belgrade with archives and personnel. Request instructions. Military authorities declare impossible remain, Belgrade in war zone. Am leaving for Vienna shortly to confer with Ambassador Penfield.

YOUNG.

PENFIELD.

Ambassador Penfield to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Vienna, December 7, 1915.

Ambassador Penfield reports the conditions under which the return of Vice Consul Young to Belgrade is consented to by the Government of Austria-Hungary as follows:

First. The employment of only Americans or Austro-Hungarians in the Consulate.

Second. Reports or observations of a military character not to be made.

Third. Subjection of both official and private correspondence to censorship.

Fourth. Journeys in occupied territory not to be undertaken and notification to military authorities in advance of journeys into Austria-Hungary.

Furthermore it is stated verbally by the Ministry of Foreign Affairs that the Vice Consul can not exercise good offices on behalf of Serbians, as they are under military jurisdiction.

It is stated by Vice Consul Young that under present conditions practically no American interests are to be cared for at Belgrade and that Italian, French, and British interests are negligible.

Should the Department, in view of foregoing, consider as useless the definite return of Vice Consul Young to Belgrade, Ambassador Penfield suggests that Mr. Young return to Belgrade to arrange matters and seal the archives, and that the office be left in charge of the messenger, who is an Austro-Hungarian subject exempt from military duty. In the event of Mr. Young being granted indefinite leave of absence it is urged that he be detailed to the Embassy to assist in its work.

The Secretary of State to Ambassador Penfield.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, December 23, 1915.

Secretary Lansing states that as it is apparent there are now practically no American or foreign interests to be taken care of in Belgrade, Vice

Consul Young should make arrangements for the sealing of the archives and for the safeguarding of the Consulate, after which he should go to the American Consulate General at Vienna, to which he has been assigned temporarily subject to the requirements of the Embassy. The seals of the Belgrade Consulate should be deposited in the American Consulate General at Vienna.

Vice Consul Young to the Secretary of State.

No. 74.] AMERICAN CONSULATE,[1]
Belgrade, January 17, 1916.

SIR: I have the honor to refer to the Department's telegraphic instructions No. 1052 of December 23, 1915, to the American Embassy at Vienna instructing me to return to Belgrade and also instructing as to the temporary closing of the American Consulate at Belgrade.

I also have the honor to report that in pursuance to the Department's instructions I left Vienna on January 4th, the date of the receipt of official permission from the Austro-Hungarian Army Headquarters to return to the war zone, and arrived in Belgrade January 5th, p. m., I having been granted permission to remain in Belgrade five days, such permission having been granted in compliance with the request of the American Embassy, Vienna, "for urgent personal affairs."

Instructions were given the office force of the Consulate that the services of the clerks would not be required by the Consulate after all current business had been finished and brought to date; that one messenger, Tomas Jakobac, Austro-Hungarian subject, was to remain on the premises of the Consulate to look after the office and such furniture and archives as would remain; and that the Consulate was to be temporarily closed.

The cipher code was brought by me to Vienna, and is temporarily deposited against receipt at the American Embassy, Vienna.

The two official Consular seals, the wafer press seal, and the wax seal were also brought by me to Vienna, and have both been deposited at the American Consulate General against proper receipt.

Such archives as could be carried were brought by me with the complete file of correspondence for the year 1915, and such volumes of in-

[1] Written from the American Embassy, Vienna.

structions from the Department as could be carried, and other official records, were also brought to Vienna, and are now in my use here at the American Embassy, in connection with the winding up of current business of the Consulate.

A complete inventory of the Consulate and the exact disposition of each and every article of Government property remaining in the office of the Consulate and also that which has been brought to Vienna will be forwarded by me at the first opportunity.

Those records and archives that remain in the Consulate, with few exceptions, were carefully packed away and locked up and sealed with the official seal of this Consulate and an inventory taken of them. This will be forwarded to the Department.

I left Belgrade January 9th, p. m., 1916, and arrived in Vienna January 10th, p. m., 1916.

I have, etc.,

JAMES B. YOUNG.

Ambassador Gerard to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Berlin, June 14, 1916.

Mr. Gerard reports that the German Foreign Office states that the Government has in contemplation extending the same recognition to Consul at Warsaw as has been accorded to consuls at Antwerp, Liège, and Brussels. Mr. Gerard states that Foreign Office desires to be informed whether recognition in this form will be regarded as acceptable by the United States Government.

The Acting Secretary of State to Ambassador Gerard.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, July 12, 1916.

Mr. Gerard is directed to inform the German Foreign Office that the

German Government's proposal to grant permission to the American Consul at Warsaw, in accordance with the treatment of consuls in Belgium, to exercise his consular functions in the portion of his consular district under the military occupation of Germany, is acceptable to the United States Government.

Part XVI

DUAL NATIONALITY [1]—MILITARY SERVICE CASE OF FRANK GHILONI.

The Secretary of State to Ambassador T. N. Page.

[Telegram.]

Department of State,
Washington, January 13, 1915.

Frank L. Ghiloni, born Marlborough, Massachusetts, August 4, 1885, detained at Barga. Father naturalized February, 1886, proprietor of restaurant and store, Marlborough. Son clerk in store. Ask release, permission to return. Report soon as possible.

Bryan.

The Secretary of State to Ambassador T. N. Page.

[Telegram.]

Department of State,
Washington, January 21, 1915.

Department's January 13, Ghiloni. Report promptly as possible.

Bryan.

Ambassador T. N. Page to the Secretary of State.

[Telegram.]

American Embassy,
Rome, January 22, 1915.

Your one forty-five, twenty-first.

Have received as yet no reply to my note fourteenth regarding Ghiloni, but am renewing request to-day. Page.

[1] See Special Supplement, July, 1915, pp. 369–375.

The Secretary of State to Consul Grace.[1]

[Telegram.]

DEPARTMENT OF STATE,
Washington, February 20, 1915.

Advise Frank Ghiloni, at Barga, Ambassador endeavoring obtain permission his release.

BRYAN.

The Secretary of State to Ambassador T. N. Page.

[Telegram.]

DEPARTMENT OF STATE,
Washington, March 25, 1915.

Your 169, January twenty-second.

What is status Ghiloni case?

BRYAN.

Ambassador T. N. Page to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Rome, March 26, 1915.

Your 183, twenty-fifth, Ghiloni case.

No definite reply received to Embassy's several requests. Am again urging action.

PAGE.

The Secretary of State to Ambassador T. N. Page.

[Telegram.]

DEPARTMENT OF STATE,
Washington, May 6, 1915.

Department's 183, March twenty-fifth. Report status Ghiloni case.

BRYAN.

[1] American consul at Leghorn.

Ambassador T. N. Page to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Rome, May 7, 1915.

Your 212, 6th.

Ghiloni case still undecided. No reply as yet to Embassy note April 23rd giving further facts.

PAGE.

Ambassador T. N. Page to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Rome, May 18, 1915.

Foreign Office states Ministry of War have decided impossible to exempt Frank Ghiloni from liability to military service.

PAGE.

The Secretary of State to Ambassador T. N. Page.

[Telegram.]

DEPARTMENT OF STATE,
Washington, June 7, 1915.

Your 281, May eighteenth. From affidavit of brother of Frank L. Ghiloni it appears that latter resided in Italy about ten years during childhood and returned this country at age of twelve and resided here continuously until last June, when he went to Italy for his health on advice physician. Confirmed by physician's affidavit. His father naturalized when Ghiloni was less than one year old.

Call Italian Government's attention fact Ghiloni was born a citizen United States under its law. As he was domiciled in this country when he attained majority nearly nine years ago, has evidently made practical election American nationality and visited Italy last June for a temporary purpose, it would seem just and reasonable for the Italian Government to permit him to leave Italy and return United States. It is

hoped that Italian Government, upon a full presentation of these facts, will grant this.

BRYAN.

Ambassador T. N. Page to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Rome, June 11, 1915.

Department's 252, seventh, and 256, tenth.

Ghiloni case again brought attention Foreign Office eighth instant with request for early and favorable action, but no reply as yet

PAGE.

The Secretary of State to Ambassador T. N. Page.

[Telegram.]

DEPARTMENT OF STATE,
Washington, July 20, 1915.

Your 322, June eleventh. Ask early decision Ghiloni case. Say this Government hopes Italian Government will give due consideration to fact that Ghiloni was born a citizen of the United States under the law of this country, has been domiciled in the United States since attaining his majority, about nine years ago, and has thus evidently made a practical election of American nationality, and that it will release him and allow him to return to his home in the United States. It is considered by this Government that the principle of election of nationality should be recognized in cases of persons born with dual nationality, whether or not the municipal laws of the countries concerned prescribe definite modes of election. This Government has no desire to intervene in cases of persons who were born in the United States of Italian parents but were domiciled in Italy upon attaining majority, are still domiciled there, and have evidently elected Italian nationality. It is hoped that Italian Government will be willing to make a reasonable discrimination in these cases. Please endeavor discuss this matter personally with Foreign Minister and report result. LANSING.

Ambassador T. N. Page to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Rome, August 13, 1915.

Informed following American citizens held for military service ordered released as born after father's naturalization: Gallo Gaspero, Francesco Leone. Alberto Tumillo has already left Italy. Following three now under arms being looked into and a decision will shortly follow: Leroy Barsotti, Ugo da Prato,[1] Francisco Ghiloni.

PAGE.

Ambassador T. N. Page to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Rome, August 18, 1915.

Regarding my 368, thirteenth, Foreign Office officially confirms release Gallo Gasparo, Leone Francesco, departure Alberto Tumolillo and states following five cases, Barsotti Leroy, Da Prato Mario Ugo, Ghiloni Francesco, Mazza Carmine, and Berardini Gostino, being carefully investigated and promises early definite reply, which Embassy unofficially understands may be favorable.

PAGE.

Ambassador T. N. Page to the Secretary of State.

No. 362.] AMERICAN EMBASSY,
Rome, August 27, 1915.

SIR: Referring to Department's No. 194 of August 4th,[2] the Department is already in receipt of information that Ugo Da Prato has been released from military service by the Royal Italian Government, together with other Italian citizens, born of Italian parents after their father had become naturalized. This is in accord with a desire expressed by the Minister for Foreign Affairs to find some line of demarcation by which, according to his view, cases of American-born citizens, whom Italy can

[1] See letter of the Secretary of State to Senator Lodge, June 9, 1915, Special Supplement, July, 1915, p. 369.

[2] Not printed.

release without change of her fundamental law, may be segregated from cases in which release would require such change, which I understand him to consider impossible.

In this connection I have the honor to report that I have just received from the Foreign Office a despatch of which I enclose a copy of the translation, relative to the cases of Ghiloni Francesco and Leroy Barsotti, both of whom it appears were born before their fathers became naturalized American citizens.

In the case of Leroy Barsotti, the Ministry for Foreign Affairs replied by Note Verbale of July 19th,[1] forwarding the decision of the Royal Ministry of War relative to this Embassy's application for Barsotti's release, a copy of which is hereto attached.

In the case of Francesco Ghiloni, the Foreign Office has repeated the decision of the Royal Ministry for War, maintaining its position that Ghiloni, even if he had during his minority lost his Italian citizenship, in consequence of the naturalization obtained in the United States by his father, that fact would not have exempted him from military service in Italy under Art. 12 of the Civil Code. A copy of the translation of the said Note Verbale of date May 16th, 1915, is herewith enclosed.

I have, etc.,

THOS. NELSON PAGE.

[Inclosure 1—Translation.]

MINISTRY FOR FOREIGN AFFAIRS,
Rome, August 27, 1915.

NOTE VERBALE.

MR. AMBASSADOR: Referring to my Note No. 44194–488 of the 23d instant concerning the case of Da Prato, I have the honor to inform Your Excellency relative to Ghiloni Francesco and Leroy Barsotti, both of whom were born Italian citizens whose fathers were Italian, and who became Americans only in the minority by naturalization of their father, the Royal Ministry of War confirms its previous decision and has declared its inability to permit their release.

I must therefore confirm to Your Excellency the communication already made in my Note No. 27183–113 of May 16th and Note No. 37353–344 of July 19th concerning the above-mentioned youths.

[1] Not printed.

Regarding the case of Mazza Giacomo and Berardini Agostino, I shall make a further communication to Your Excellency at the earliest possible moment.

S. SONNINO.

[Inclosure 2—Translation.]

MINISTRY FOR FOREIGN AFFAIRS,
Rome, May 16, 1915.

NOTE VERBALE.

In reply to the American Embassy's Note No. 486 of April 28th, the Royal Ministry for Foreign Affairs regrets very much to be obliged to make known to that Embassy that according to a decision just received from the Royal Ministry of War Francesco Ghiloni, belonging to the Class of 1885, can not be considered as exempt from his military obligations in Italy.

In fact, even if he had during his minority lost his Italian citizenship in consequence of the naturalization obtained in the United States by his father, that fact would not have exempted him from military service in Italy, as is explicitly pointed out in Art. 12 of the Civil Code, which was still in force when he was called to the colors with the class to which he belongs by reason of his age.

This being the state of the case, the Royal Ministry of War has instructed the Prefect of Lucca to summon Ghiloni before him for personal examination, and for his enlistment before the Council of recruiting of that Military District.

The Secretary of State to Ambassador T. N. Page.

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 4, 1915.

Your 371, August eighteenth.

Have you any further information concerning Ghiloni case? His friends are importunate.

LANSING.

Ambassador T. N. Page to the Secretary of State.

No. 367.] AMERICAN EMBASSY,
Rome, September 4, 1915.

SIR: Referring to this Embassy's despatch No. 362 of August 27th, in regard to the case of Frank L. Ghiloni, an American citizen now serving in the Italian Army, I have the honor to report that the Embassy has received a communication from Mr. Alfred R. Ghiloni at Marlboro, Mass., stating that his brother, Frank L. Ghiloni, is in poor health and believed to be suffering from gall stones and that it is hoped the Italian Military authorities will relieve him from duty on this ground if on no other.

I have the honor to enclose herewith a copy of a Note Verbale which the Embassy sent to-day to the Royal Ministry for Foreign Affairs upon this subject. It will be noted that the Embassy, whilst asking for a medical examination with a view to his possible exemption, has not surrendered its claim for Mr. Ghiloni's release on other grounds.

I have, etc.

For the Ambassador:
PETER A. JAY.

[Inclosure.]

F. O. No. 738.] AMERICAN EMBASSY,
Rome, September 4, 1915.

NOTE VERBALE.

With reference to Note No. 43176–458, dated August 16th from the Royal Ministry for Foreign Affairs in regard to Frank L. Ghiloni, a native-born American citizen, now enrolled in the Royal Italian Army, the American Embassy has the honor to inform the Royal Ministry for Foreign Affairs that it is in receipt of information that Mr. Ghiloni is in very bad health, and believed to be suffering from gall stones.

The American Embassy, while maintaining its request that Mr. Ghiloni be released on the ground that he is a native-born American citizen, suggests that he be subjected to a careful medical examination by the military authorities with a view to his exemption from service if found unfit for duty.

Ambassador T. N. Page to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Rome, September 5, 1915.

Your 314.

Ghiloni's release refused by War Office on ground born prior to father's naturalization. See Embassy's despatch August twenty-seventh. Embassy, while maintaining request for his release as native-born citizen, has, at suggestion his family, requested medical examination with view to exemption if found unfit. See Embassy's despatch September fourth.

PAGE.

The Secretary of State to Ambassador T. N. Page.

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 23, 1915.

Your despatch 367, September fourth.

Relatives, friends, urging prompt action case Frank L. Ghiloni. Report status.

LANSING.

Ambassador T. N. Page to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Rome, October 25, 1915.

Department's 362, twenty-third.

See Embassy's telegram 389, October fifth.

Ghiloni's release definitely refused by military authorities, who state that if he is sick as claimed he will receive proper and necessary medical treatment from army surgeons.

PAGE.

Ambassador T. N. Page to the Secretary of State.

No. 396.] AMERICAN EMBASSY,
Rome, October 25, 1915.

SIR: With reference to the Department's telegram No. 362 of October 23d and my telegram No. 418 of October 25th, I have the honor to enclose herewith copy of a note verbale received from the Royal Italian Ministry for Foreign Affairs, dated October 2d, 1915.

I have, etc., THOS. NELSON PAGE.

[Inclosure—Translation.]

MINISTRY FOR FOREIGN AFFAIRS,
Rome, October 2, 1915.

NOTE VERBALE.

In response to the American Embassy's esteemed Note Verbale No. 738 of September 4th last, the Royal Ministry for Foreign Affairs regrets very much to be compelled to inform that Embassy that the Ministry of War has decided that Francesco L. Ghiloni can not be exempted from military service in Italy, for the reason that he was born an Italian and only afterwards took up his abode and citizenship in another country.

In so far as concerns the condition of his health, he must present himself before the proper medical officers of his regiment and request a medical examination, which will of course be given him, after which he will be accorded the same treatment as his fellow-soldiers and in accordance with the rules and regulations now in force in the Italian Army.

The Secretary of State to Ambassador Penfield.

No. 707.] DEPARTMENT OF STATE,
Washington, January 8, 1916.

SIR: The Department has been endeavoring for several months to obtain the release from military service in Italy of Frank L. Ghiloni, who was impressed into the Italian army upon the occasion of a visit by him to that country. It appears from the correspondence on file in the Department that Frank L. Ghiloni was born at Marlborough, Massachusetts, on August 4, 1885, his father being an Italian subject who obtained naturalization as a citizen of the United States on February 12, 1886. It further appears that Frank L. Ghiloni went to Italy

when he was two years of age, returned to the United States in May, 1897, and resided here continuously until June, 1914, when he went to Italy for his health upon the advice of his physician. It was during this visit that he was impressed into the Italian army. In a despatch No. 396, of October 25, 1915, the Ambassador at Rome transmitted a copy of a Note Verbale, which was received from the Royal Ministry for Foreign Affairs, dated October 2, 1915, in which the Department's request for the release of Mr. Ghiloni was definitely refused for the reason that "he was born an Italian and only afterwards took up his abode and citizenship in another country." The Department has been informed that Mr. Ghiloni's immediate family are permanently established in the United States. In a communication dated December 25, 1915, Mr. Alfred R. Ghiloni, of Marborough, Massachusetts, informed the Department that his brother was taken prisoner by the Austrian army on October 21, and that his address is now as follows:

"Frank L. Ghiloni, War Prisoner, 3rd Co., 156th Reg't Infantry, Mautheusen, Austria. (Hungary?)"

Upon behalf of the relatives in this country, Mr. Alfred R. Ghiloni requests that proper steps be taken to inform the Austrian officials of the American citizenship of his brother, and that his release be requested, and permission obtained for him to return to the United States.

You will please present the facts in this case to the appropriate Austrian officials, and request that Mr. Frank Ghiloni be released and permitted to return to this country. You are requested to inform the Department, by telegraph, concerning the decision of the Austrian authorities in this matter, as Mr. Ghiloni's relatives are very anxious to be informed as to the outcome of this case.

I am, etc.

For the Secretary of State:
FRANK L. POLK.

The Secretary of State to Ambassador Penfield.

[Telegram.]

DEPARTMENT OF STATE.
Washington, February 18, 1916.

See Department's instruction 707, January eighth.

Emphasize the fact Frank L. Ghiloni, born American citizen, was impressed into Italian army and was serving against his wishes. Earn-

estly request his release and permission return this country. His mother seriously ill because of his plight. Report result intercession also Ghiloni's condition.

LANSING.

Secretary of State to Ambassador T. N. Page.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, February 18, 1916.

Mr. Lansing makes reference to the Department's telegrams of February 17,[1] 1916, July 20,[2] 1915, and June 7,[3] 1915, and to the arguments therein advanced, and emphasizes the facts that Ajello, who was domiciled in this country ever since his birth in 1882, and who evidently has elected American Nationality, was seized while he was on a visit to Italy. The note of the Foreign Office of October 2, enclosed in Mr. Page's dispatch No. 396 of October 25, indicates a misunderstanding of the case of "Ghiloni." It is not through naturalization but by birth in this country that Ajello and Ghiloni claim American citizenship. Mr. Page is instructed to secure a definite reply and to make a report.

Ambassador Penfield to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Vienna, March 3, 1916.

Department's 1129, February eighteenth.

Information just received from Central Information Bureau of Red Cross states Frank Ghiloni wounded and taken prisoner in October last, tranferred to Mauthausen in November. He is now perfectly well. Am awaiting reply competent authorities concerning his release.

PENFIELD.

[1] Not printed. [2] *Supra*, p. 463. [3] *Supra*, p. 462.

Ambassador T. N. Page to the Secretary of State.

[Extract.]

No. 461.] AMERICAN EMBASSY,
Rome, March 4, 1916.

SIR: Referring to the Department's telegram No. 482 of February 18 relative to the detention in Italy for military service of Enrico Ajellor and also to the Ghiloni case, I have the honor to report that immediately upon the receipt of the Department's telegram I addressed another note to the Royal Minister for Foreign Affairs, carrying out the instructions contained in your telegram.

I also called upon the Minister personally and went over the whole matter with him. He promised to have all these military service cases studied anew.

I have, etc.,

THOMAS NELSON PAGE.

Ambassador Penfield to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Vienna, March 14, 1916.

1185, March fourteenth.

My telegram 1172, March third.

Ministry ask what guarantee can be given that Frank Ghiloni will not again bear arms against monarchy or allies during present war, case release.

PENFIELD.

Ambassador Penfield to the Secretary of State.

No. 1404.] AMERICAN EMBASSY,
Vienna, March 16, 1916.

Sir: With reference to the Department's instruction No. 707 of January 8th, telegram No. 1129 of February 18th, and this Embassy's

telegrams No. 1172 and No. 1185 of March 3rd and 14th, respectively, relative to the American citizen Frank Ghiloni, who was taken prisoner of war by the Austro-Hungarian forces while serving in the Italian army, I have the honor to enclose herewith copy of a Note Verbale No. 24692–7, dated March 9th, in which the request contained in my last telegram above mentioned on behalf of the Austro-Hungarian Ministry of War and other details relative to Ghiloni were recited. Copy of the Embassy's Note Verbale in reply to this communication is also enclosed for the information of the Department.

I have, etc.,

FREDERIC C. PENFIELD.

[Inclosure 1—Translation.]

AUSTRO-HUNGARIAN FOREIGN OFFICE,
Vienna, March 9, 1916.

NOTE VERBALE.

With reference to the very esteemed Notes Verbales No. 4948 of February 8th and No. 5189 of February 21, 1916, the Imperial and Royal Ministry for Foreign Affairs has the honor to inform the Embassy of the United States of America that it has not failed, upon receipt of these Notes, to request the Imperial and Royal Ministry of War for conclusive action in this case by the military authorities.

The Imperial and Royal Ministry of War reports that, while endeavoring to accommodate the Government of the United States, it is obliged to examine the conditions of the case with great care, since Frank Ghiloni was taken prisoner as an Italian soldier with arms in hand by Austro-Hungarian soldiers.

Aside of the proof of personal identity of Ghiloni still to be furnished, the investigation of this case will principally affect the question whether and to what extent Ghiloni had been compelled to join the Italian army.

In the opinion of the Imperial and Royal Ministry of War this question can not be answered in the affirmative until further development, since it is very likely that if Ghiloni had been compelled to join the Italian army against his will, that, as an American citizen, he would have appealed to the American Embassy at Rome, for protection, and that by its intervention his dismissal would have doubtlessly followed.

The anxiety contended as being caused to his mother by Ghiloni's

fate appears to the Imperial and Royal Ministry of War as hardly justifiable in view of the well-known good treatment accorded to Italian prisoners of war in this country; this so much the more since Ghiloni is at present less exposed to dangers than he was at the time when he fought against the Austro-Hungarian army with arms in hand.

The Imperial and Royal Ministry besides instructed the Command of the war prisoners' camps at Mauthausen of the relevant points necessary in the consideration of the case.

As regards a definite attitude in this case, it would be of special interest to the Imperial and Royal Ministry of War to be informed what safeguards could be offered should Ghiloni be dismissed and that in such an event he would not carry arms against Austria-Hungary or its allies during this war.

The Imperial and Royal Ministry for Foreign Affairs expects kind information on this point from the Embassy of the United States of America.

[Inclosure 2.]

No. 5669.] AMERICAN EMBASSY,
Vienna, March 16, 1916.

NOTE VERBALE.

The American Embassy presents its compliments to the Imperial and Royal Ministry of Foreign Affairs, and with reference to its Notes Verbales No. 4948 of February 8th and No. 5189 of February 21st and the esteemed Note Verbale No. 24692–7, dated March 9th, from the Imperial and Royal Ministry of Foreign Affairs, relative to the American citizen Frank Ghiloni, who was taken prisoner by the Austro-Hungarian forces and is now interned in the Monarchy, has the honor to state that information was received from the Department of State to the effect that the man in question was born at Marlborough, Massachusetts, on August 4th, 1885, his father being an Italian subject who obtained naturalization as a citizen of the United States on February 12, 1886; that it further appears that Frank Ghiloni went to Italy when he was two years of age, returning to the United States in May, 1897, and resided there continuously until June, 1914, when he went to Italy for his health upon the advice of his physician. It was during this visit that he was impressed into the Italian army. Subsequent to his impressment a formal request was made to the competent Italian authorities

by the American Embassy at Rome for his release, which was, however, not granted, on the ground that "he was born an Italian, and only afterwards took up his abode and citizenship in another country."

This Embassy has cabled to the Department of State requesting information as to what guarantees can be given that Frank Ghiloni will not again bear arms against the monarchy or its allies during the present war in case he should be released, and in accordance with the request of the Imperial and Royal authorities the desired information will be transmitted upon its receipt.

The Acting Secretary of State to Ambassador Penfield.

[Telegram.]

DEPARTMENT OF STATE,
Washington, March 21, 1916.

Your 1185, fourteenth.

Will Ghiloni's sworn statement be accepted? If not, what guarantee will be required? Again mention that Department's records show clearly Ghiloni was impressed into Italian army and did not volunteer. This Government endeavored obtain his release from Italian army, but without success.

POLK.

The Secretary of State to Ambassador T. N. Page.

No. 309.] DEPARTMENT OF STATE,
Washington, March 23, 1916.

SIR: With reference to the cases of persons born in this country of Italian parents and held in Italy for military service, such as the case of Ghiloni, the Department's attention is called to Article seven of the Italian law on Citizenship, promulgated June 30, 1912, reading as follows:

Except in the case of special provisions to be stipulated by international treaties, an Italian citizen born and residing in a foreign nation, which considers him to be a

citizen of its own, retains still Italian citizenship, but he may abandon it when he becomes of age.

Please ask the Italian Government whether this provision is not applicable to persons born in this country of Italian parents, provided such persons were domiciled in this country upon attaining their majority, still maintain such domicile, and evidently elected American rather than Italian nationality. You will also ask to be informed as to what evidence will satisfy the Italian authorities of abandonment of Italian nationality on the part of persons born in the United States of Italian parents.

I am, etc.

For the Secretary of State:
FRANK L. POLK.

Ambassador Penfield to the Secretary of State.

[Telegram.]

AMERICAN EMBASSY,
Vienna, March 27, 1916.

Ministry Foreign Affairs inform me Ministry War although prepared to comply wishes American Government regarding release Frank L. Ghiloni can not do so except under assumption that American Government first cause Italian Government recognize his American citizenship, otherwise likelihood would obtain after being discharged he could again be compelled by Italy or Allies to perform military service Italian army against Central Powers; this in view refusal Italian authorities to recognize his American citizenship and permit return to United States, intervention of American representatives notwithstanding.

PENFIELD.

The Secretary of State to Ambassador Penfield.

[Telegram.]

DEPARTMENT OF STATE,
Washington, March 31, 1916.

Your 1205 twenty-seventh. Ask release Ghiloni upon his sworn statement that he will return immediately United States, and will not

leave United States during continuance war. Say Department received positive assurances Ghiloni impressed into Italian army against his will, and upon such assurances Department endeavored obtain his release. Department assured Ghiloni will not revisit Italy during war.

LANSING.

The Secretary of State to Ambassador Penfield.

[Telegram.]

DEPARTMENT OF STATE,
Washington, April 25, 1916.

Your despatch number 1404, March 16, and Department's telegram 1179, March 31. Will Austrian authorities release Ghiloni upon his promise suggested and Department's assurance that passport will not be issued to him to leave United States during continuation of war?

LANSING.

Ambassador Penfield to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Vienna, May 5, 1916.

Mr. Penfield reports that the Austro-Hungarian Ministry of Foreign Affairs agrees to release Frank Ghiloni under certain conditions, namely, that Ghiloni, in the presence of an American Embassy official, will make a sworn affidavit that during the present war he will not bear arms against the Central Powers; that after his repatriation he will not leave American territory during the present war; that Mr. Ghiloni will be repatriated by way of Scandinavia, Holland, or Germany; and that a guarantee be given by the Government of the United States that the Entente Powers shall not seize Ghiloni and compel him to do military service. Mr. Penfield also states that it is the wish of the Austro-Hungarian Ministry of Foreign Affairs to know if the American Government agrees to these conditions, so that Ghiloni's release may be effected immediately.

The Secretary of State to Ambassador Penfield.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, May 8, 1916.

Mr. Penfield is informed that the first two conditions for the release of Mr. Ghiloni mentioned in his telegram of May 5 are agreed to by the Department. As to the third condition, while an absolute guarantee can not be given, the Department does not believe that Mr. Ghiloni would be seized by the Entente Powers. The Government of the United States does not recognize the right of the Entente Powers to seize Mr. Ghiloni, and it would demand his immediate release in case he was seized. Of course it is understood that Mr. Ghiloni would not enter territory of Italy, and his return to the United States by the Scandinavian route would seem advisable.

Ambassador Penfield to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN EMBASSY,
Vienna, June 19, 1916.

Mr. Penfield reports that Frank Ghiloni has been released and delivered to the Embassy, and that he will return to the United States via Scandinavia.

Mr. Penfield will report the name of the steamer and date of sailing as soon as ascertained.

INDEX

INDEX

TO THE SPECIAL SUPPLEMENTS TO THE AMERICAN JOURNAL OF INTERNATIONAL LAW FOR JULY, 1915, AND OCTOBER, 1916

(NOTE: Although these special supplements are not numbered, for convenience of reference they are referred to in this index as Nos. 1 and 2, the pages in the July, 1915, number being preceded by the figure 1, and those in the October, 1916, number by the figure 2.)

AEROPLANES, HYDRO-. Character of *1*:366–368
AJELLO, ENRICO. Military service case of *2*:471
AMERICAN TRANSATLANTIC COMPANY. Seizure of vessels of *2*:145
AMERICANS. Arrest of, on neutral vessels and in British ports *1*:263
ANCONA, S. S. Sinking of *2*:297–305
APPAM, S. S. German prize in American port *2*:387–403
———. Admiralty order found on *2*:339
ARABIC, S. S. Sinking of *2*:165–167, 170–173, 176, 203–229
ARMED MERCHANT VESSELS:
  Austrian announcement regarding treatment of *2*:313
  Correspondence regarding *1*:222–240; *2*:310–341
  German memorandum on treatment of, with exhibits *2*:314, 339
  United States circular relating to status of *1*:234
  United States memorandum on status of *2*:367–372
ARMS AND MUNITIONS. Exportation of:
  Correspondence with Austria-Hungary *1*:146, 166; *2*:354
  Correspondence with Germany *1*:90, 125–129, 217
  Letter of Secretary of State to Senate Committee *1*:259
ARREST OF AUGUST PIEPENBRINK on an American vessel *1*:353–360
ATTITUDE OF UNITED STATES toward Austria and Germany *1*:266
AUSTRIA-HUNGARY. Announcement regarding armed merchant ships *2*:313
———. Lists of contraband of war *1*:46–48
AUSTRIA-HUNGARY–UNITED STATES. Correspondence respecting:
  Armed merchant vessels *2*:313
  Consular officers in occupied territory *2*:453–457
  Declaration of London *1*:1–8
  Exportation of arms and munitions *1*:146, 166; *2*:354
  Military service case *2*:469–478
  Recall of Austrian Ambassador *2*:361–362
  Submarine warfare *2*:297–309

BANDOENG, S. S. Attempt of, to ram submarine *2*:200
BARSOTTI, LEROY. Military service case *2*:465
BELGIAN RELIEF. Correspondence respecting *1*:314–336
BELGIUM. Status of neutral consular officers in *2*:445–453
BELGIUM–UNITED STATES. Correspondence respecting Declaration of London *1*:1-8
———. Warfare between submarines and armed merchant ships *2*:310, 336
BELLIGERENT TERRITORY, Occupied. Status of neutral consular officers in *2*:445–459
BELLIGERENT WARSHIPS. *See* WARSHIPS
BERMUDA, THE. (3 Wall. 514.) Cited *1*:74; *2*:77
BERWINDVALE, S. S. Sinking of *2*:183
BLACKLIST. Correspondence regarding *2*:148
See TRADING WITH THE ENEMY.
BLOCKADE. Correspondence regarding ... *1*:101–106, 109–122, 141, 157; *2*:79, 134
Decree (French). *August 25, 1914* *1*:6
———. *November 6, 1914* *1*:25
———. *March 13, 1915* *1*:113
———. *July 7, 1916.* (With memorandum.) *2*:9, 11
Edict (Russian). *September 1, 1914* *1*:31
———. *December 8, 1914* *1*:34
Order in Council (British) *August 20, 1914* *1*:4
———. *October 29, 1914* *1*:14
———. *March 11, 1915* *1*:110
———. *March 30, 1916* *2*:4
———. *July 7, 1916.* (With memorandum.) *2*:5
Ordinance (German). *April 18, 1915* *1*:43
BOER WAR. Sales of munitions during *1*:167, 172
BOY-ED, Captain. German naval attaché. Recall of *2*:363–366
CABLEGRAMS. Censorship of *1*:255, 270–313
CARRIAGE OF CARGOES. Order in Council. *November 10, 1915* *2*:109
CENSORSHIP of telegrams by cable and wireless *1*:255, 270–313
CHINA, S. S. Removal of enemy subjects from *2*:427–432
CITIZENSHIP. *See* DUAL NATIONALITY.
CODE telegrams and cables. British regulations *1*:295
———. French regulations *1*:304
COMMERCE, RESTRAINTS ON. Correspondence relating to *1*:55–172; *2*:58–150
CONSULAR MAIL. Transmission of *1*:268–269
CONSULAR OFFICERS, neutral, in occupied territory. Status of *2*:445–459
CONTRABAND OF WAR. Correspondence respecting *1*:57, 62, 72, 78, 257; *2*:87
Decrees and orders affecting:
British Orders in Council:
August 20, 1914 ..... *1*:4
October 29, 1914 ..... *1*:14
March 11, 1915 ..... *1*:110
March 30, 1916 ..... *2*:4
July 7, 1916. (With memorandum.) *2*:5

French decrees:
August 25, 1914 ..... *1*:6
November 6, 1914 ..... *1*:25
March 13, 1915 ..... *1*:113
July 7, 1916. (With memorandum.) *2*:9, 11
German ordinance. *April 18, 1915* *1*:43
Russian edicts. *September 1, 1914* *1*:31
December 8, 1914 ..... *1*:34
Lists of:
Austro-Hungarian *1*:46–48
British *1*:9–22; *2*:14–16, 49, 51
Alphabetical index of absolute contraband. *November 5, 1915* ... *2*:23
———. Conditional contraband. *November 5, 1915* *2*:42
Summary of proclamations. *November 5, 1915* *2*:21
White paper listing articles and abolishing distinction between absolute and conditional *2*:52
French *1*:23–30
German *1*:37–46
Russian *1*:31–37
Turkish *1*:48–54
CONVERSION OF MERCHANT SHIPS INTO WARSHIPS *1*:222–240
CONVOY of neutral ships *1*:95
COSTS in prize proceedings *2*:87, 140
COTTON *1*:18, 142; *2*:59, 62
CUSHING, S. S. Attack on *1*:129–149
DECLARATION OF LONDON. Correspondence respecting *1*:1–8, 266
Orders and decrees relating to:
British Orders in Council:
August 20, 1914 ..... *1*:4
October 29, 1914 ..... *1*:14
October 20, 1915 ..... *2*:2
March 30, 1916 ..... *2*:4
July 7, 1916. (With memorandum.) *2*:5
French decrees:
August 25, 1914 ..... *1*:6
November 6, 1914 ..... *1*:25
October 23, 1915 ..... *2*:1
July 7, 1916. (With memorandum.) *2*:11
Germany. *April 18, 1915* *1*:43
Russia. *September 1, 1914* *1*:31
December 8, 1914 ..... *1*:36
DETENTION CAMPS for noncombatants *1*:264
DETENTION of American ships *1*:143; *2*:58, 74
DIPLOMATIC INTERVENTION in prize cases. Right of *1*:77, 145, 165; *2*:83, 137
DIPLOMATIC MAIL. Transmission of *1*:268–269
DON JOSE, The. Discussed *2*:85, 139, 142
DUAL NATIONALITY *1*:369–375; *2*:460–478

Dumba, Constantin Theodor. Austrian Ambassador. Recall of *2*:361–362
Dumdum Bullets. Sale of *1*:260
Eagle Point, S. S. Sinking of *2*:182, 183
Enemy Subjects. Removal of, from American vessels. . *1*:256, 353-360; *2*:427–432
Englishman, S. S. Sinking of *2*:182, 183
Escape of interned officers and men from German ships *2*:433–444
Evidence in prize cases *2*:76, 125
See Fordney, S. S.
Executive Orders regarding wireless messages:
August 5 and September 5, 1914 ..... *1*:270, 273
Falaba, S. S. Sinking of *1*:129–141
Farn. German prize ship. Internment of *1*:361–365
Flag as determining character of vessel:
British Order in Council. *October 20, 1915* *2*:2
French decree. *October 23, 1915* *2*:1
See American Transatlantic Company, Seizure of vessels of.
Flag, Neutral. Use of by belligerents *1*:86, 88, 90, 96, 97, 99, 106
Flag. Transfer of *1*:82
Foodstuffs. Importation of, into Germany:
Correspondence with Germany *1*:90, 98, 125, 127, 150, 156
Correspondence with Great Britain *1*:58, 63, 79, 107
———. Cargo of *Wilhelmina* *1*:122, 173–179
———. Fordney, S. S. Seizure of *2*:58, 151–160
German decree relating to *1*:174, 176
Letter of Secretary of State to Senate Committee *1*:258
Modus vivendi proposed by United States *1*:97–101, 106
Fordney, S. S. Seizure of *2*:58, 151–160
Fox, The. Cited *1*:163
France. Declaration of restrictions on German commerce. *March 1, 1915* . . . *1*:115
———. Decree. *March 13, 1915* *1*:113
Decrees respecting the Declaration of London:
August 25, 1914 ..... *1*:6
November 6, 1914 ..... *1*:25
October 23, 1915 ..... *2*:1
July 7, 1916 (with memorandum.) *2*:11
Lists of contraband of war *1*:23–30
France–United States. Correspondence respecting:
Armed merchant vessels and submarines, warfare between *2*:310, 336, 338
Censorship of cable messages *1*:285, 290, 300, 301, 303, 309
Declaration of London *1*:1–8
Interferences with mails *2*:404–426
Removal of A. Piepenbrink from an American vessel *1*:353–360
Restrictions on German commerce and blockade *1*:101, 102, 104, 112
Submarines in neutral waters *2*:342
Franciska, The. (Moore, P. C. 56.) Cited *2*:81
Frye, William P. Sinking of the *1*:180–193; *2*:345–352
Geier, German ship. Internment of *1*:241–252

GERMANY. Decree relating to foodstuffs *1*:174, 176
Lists of contraband of war *1*:37–46
Memorandum on treatment of armed merchant vessels *2*:314, 339
Ordinance relating to Declaration of London. *April 18, 1915* *1*:43
War zone decree and memorandum on retaliatory measures. *February 4, 1915* *1*:83
GERMANY–GREAT BRITAIN. Modus vivendi between, proposed by United States *1*:97–101, 106
GERMANY–UNITED STATES. Correspondence respecting:
American trade. *See* FOODSTUFFS.
Appam, S. S. German prize in American port *2*:387–403
Armed merchant vessels *1*:234, 237–240; *2*:314, 335, 339
Belgian relief *1*:314–336
Belligerent warships, violations of neutrality by *1*:212, 215–219
Censorship of cable messages *1*:290
Consular officers, neutral, in occupied territory *2*:445–452, 458
Declaration of London *1*:1–8
Escape of interned officers and men *2*:433–444
Frye, William P., S. S. *1*:180–193; *2*:345–352
Hydro-aeroplanes *1*:366–368
Internment of the *Geier* and *Locksun* *1*:243, 245–252
———. *Kronprinz Wilhelm* *1*:351–352
———. *Prinz Eitel Friedrich* *1*:349–350
Interpretation of treaties with Prussia *1*:180–193; *2*:387–403
Munitions of war, exportation of *1*:125–129
Neutral flags, use of, by belligerents *1*:86, 94, 99
Odenwald, S. S., attempt of, to sail without papers *1*:337–342
Panama Canal, neutrality of *1*:209
Recall of attachés at Washington *2*:363–366
Submarine warfare *1*:129–141, 149, 155; *2*:161–202
War zone *1*:83–88, 90, 97, 99; *2*:161
GHILONI, FRANK. Military service case of *2*:460–478
GREAT BRITAIN:
Blockade of Germany Declaration of. *March 1, 1915* *1*:101
———. Order in Council. *March 11, 1915* *1*:110
Carriage of cargoes. Order in Council. *November 10, 1915* *2*:109
Contraband of war, lists of *1*:9–22; *2*:14–16, 49, 51
———. Alphabetical indexes of articles. *November 5, 1915* *2*:23, 42
———. Summary of proclamations. *November 5, 1915* *2*:21
———. White paper listing articles and abolishing distinction between conditional and absolute contraband *2*:52
Declaration of London. Orders in Council:
August 20, 1914 ..... *1*:4
October 29, 1914 ..... *1*:14
October 20, 1915 ..... *2*:2
March 30, 1916 ..... *2*:4
July 7, 1916. (With memorandum.) *2*:5

Requisition of ships. Order in Council. *March 23, 1915* *1*:123
———. Order in Council. *November 10, 1915* *2*:108
Trading with the enemy act. *1915* *2*:111
Great Britain–Germany. Modus vivendi between, suggested by United States *1*:97–101, 106
Great Britain–United States. Correspondence relating to:
Appam, S. S. German prize in American port *2*:387–403
Armed merchant vessels *1*:222–237; *2*:310, 336, 338
Belgian relief *1*:314–336
Belligerent warships, violations of neutrality by *1*:212–215, 219–221
———. *See* Hovering of British Warships.
Blacklist *2*:148
Blockade *1*:101–106, 109–122, 141, 157; *2*:79, 134
Censorship of cable messages *1*:270–313
Contraband of war *1*:57, 62, 72, 78; *2*:87
Conversion of merchant ships into warships *1*:222–240
Declaration of London *1*:1–8
Detention of American cargoes and ships *1*:55–83, 143; *2*:58, 74
Flag, neutral, use of, by belligerents *1*:88, 96, 97, 106
———. Transfer of *1*:82; *2*:145
Foodstuffs, importation of, into Germany *1*:58, 63, 79, 107
Fordney, S. S., seizure of *2*:58, 151–160
German commerce, restrictions on *1*:101, 102, 109, 116, 141, 157; *2*:58–150
Hovering of warships *2*:373–386
Interferences with mails *2*:404–426
Internment of German ship *Farn* *1*:361–363
———. *Geier* and *Locksun* *1*:241, 244
———. *Prinz Eitel Friedrich* *1*:349, 350
Neches, S. S., detention of *1*:154, 162; *2*:63
Panama Canal, violations of neutrality of *1*:141, 153, 163
Prize court, American cases in *1*:58, 77, 81, 141, 145, 153, 163, 165; *2*:76, 83, 87, 115–120, 125, 137, 140
Removal of enemy subjects from American vessels *1*:353–360; *2*:427–432
Seguranca, S. S. Detention of *1*:343–344
Submarines and armed merchant vessels *2*:310, 336, 338
Submarines in neutral waters *2*:342
Trading with the enemy act. *1915* *2*:112–115
Wico, S. S., detention of *1*:345–348
Wilhelmina, S. S., detention of *1*:122, 173–179
Gulflight, S. S. Attack on the *1*:129–141
Hovering of British warships *1*:262; *2*:373–386
Hydro-Aeroplanes *1*:366–368
Imperator, S. S. Sinking of *2*:305
Importations into the United States *1*:143, 154, 162; *2*:63
International Law. Orders in Council at variance with *1*:153, 163; *2*:84, 138
Interned Officers and Men. Escape of *2*:433–444

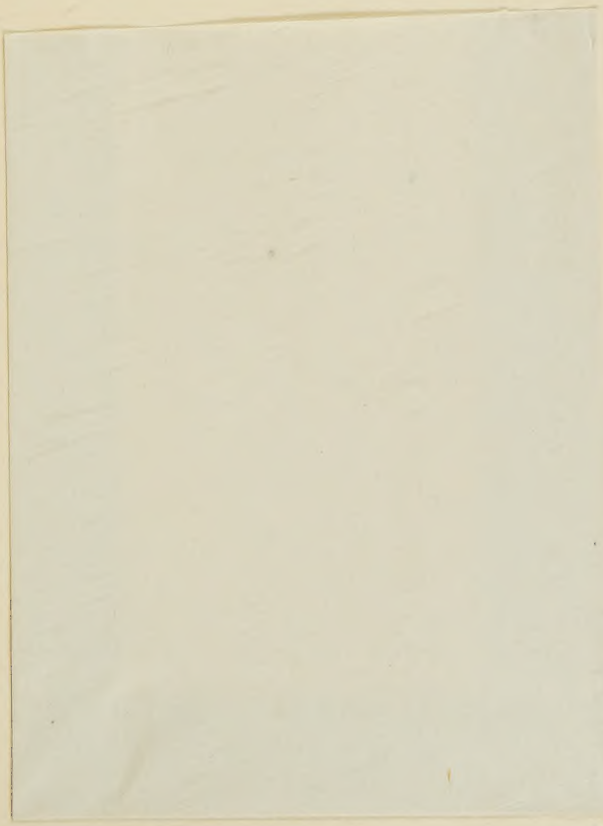
INTERNMENT OF GERMAN SHIPS:
Farn *1*:361–365
Geier and *Locksun* *1*:241–252
Kronprinz Wilhelm *1*:351–352
Prinz Eitel Friedrich *1*:349–350
INTERNMENT OF OFFICERS who left ship before internment *1*:246, 249
INTERNMENT OF TENDERS to warships *1*:245–252, 265, 361–365
ITALY–UNITED STATES. Correspondence regarding:
Armed merchant vessels and submarine warfare *2*:310, 336, 338
Censorship of cable messages *1*:280, 286, 287, 290, 293
Military service cases *1*:369–375; *2*:460–472, 475
Submarines in neutral waters *2*:342
JAPAN–UNITED STATES. Correspondence regarding:
Armed merchant vessels and submarine warfare *2*:310, 338, 340
Internment of German ships *Geier* and *Locksun* *1*:241, 243, 244
Submarines in neutral waters *2*:342
JONGE PIETER. (4 C. R. 79.) Cited *2*:82
KRONPRINZ WILHELM. German cruiser. Internment of *1*:351–352
———. Escape of officers and men from *2*:433–444
LABUAN, THE. Discussed *2*:85, 139, 142
LEELANAW, S. S. Sinking of *2*:163–165, 173-175, 177
LOANS TO BELLIGERENTS *1*:263
LOCKSUN AND GEIER. German ships. Internment of *1*:241–252
LUSITANIA, S. S. Sinking of *1*:129–141, 149, 155; *2*:165
———. Use of American flag by *1*:88
MAGICIENNE, THE. Discussed *2*:85, 139, 142
MAIL of American diplomatic and consular officers *1*:268-269
MAILS. Interferences by belligerents with *1*:256; *2*:404–426
MANCHESTER ENGINEER, THE. Sinking of *2*:182, 183
MARITIME RIGHTS ORDER IN COUNCIL. *1916* *2*:5
MATAMORAS CASES. Cited *1*:165; *2*:82
MEAT PACKERS, American. Seizure of shipments of *2*:61, 69
MEDITERRANEAN SEA. German submarine warfare in *2*:177
MERCHANT VESSELS:
Armed. *See* ARMED MERCHANT VESSELS.
Conversion of, into warships *1*:222-240
Detention of, in British ports *1*:55–83, 143; *2*:58, 74
Furnishing of supplies by, to warships *1*:212–221
Suspected of carrying supplies to belligerent vessels. Circular of United States. *September 19, 1914* *1*:235
MILITARY SERVICE CASES *1*:369–375; *2*:460–478
MINES, Submarine *1*:90, 97, 99
MODUS VIVENDI between Great Britain and Germany suggested by United States *1*:97–101, 106
MUNITIONS OF WAR, Exportation of. Correspondence between:
Austria-Hungary and the United States *1*:146, 166; *2*:354
Germany and the United States *1*:90, 125–129, 217

Letter of Secretary of State to Senate Committee *1*:259
Nationality as determining character of vessel:
British Order in Council. *October 20, 1915* *2*:2
French decree. *October 23, 1915* *2*:1
See American Transatlantic Company, Seizure of vessels of.
Nationality, Dual *1*:369–375; *2*:460–478
Nebraskan, S. S. Damaging of *2*:162
Neches, S. S. Detention of cargo of *1*:154, 162; *2*:63
Netherlands Oversea Trust. Consignments to *1*:343
Neutral Countries, Trade with *1*:55, 60, 66, 258; *2*:61, 63, 64, 77, 127
See Seguranca, S. S. Detention of *1*:343, 345
Neutrality:
Agreement between United States and Panama *1*:200
Appeal by the President of the United States *1*:199
Correspondence relating to violations of, by warships *1*:212–221
———. *See* Hovering of British Warships.
Correspondence relating to violations of Panama Canal *1*:207–211
Joint resolution of Congress. *March 4, 1915* *1*:205
Letter of Secretary of State to Senate Committee on *1*:253–267
Proclamations of, between European belligerents, by United States *1*:194–206
Proclamation regarding Panama Canal Zone *1*:201
Occupied Belligerent Territory, Status of neutral consular officers in *2*:445–459
Odenwald, S. S. Attempt of, to sail without clearance papers *1*:337–342
Orders in Council at variance with international law *1*:153, 163; *2*:84, 138
Orders in Council, Texts of:
August 20, 1914 (Declaration of London) *1*:4
October 29, 1914 (Declaration of London) *1*:14
March 11, 1915 (Blockade of Germany) *1*:110
March 23, 1915 (Requisition of ships) *1*:123
October 20, 1915 (Declaration of London) *2*:2
November 10, 1915 (Requisition of ships) *2*:108
November 10, 1915 (Carriage of cargoes) *2*:109
March 30, 1916 (Declaration of London) *2*:4
July 7, 1916 (Declaration of London) *2*:5
Orduna, S. S. Attack on *2*:168
Owego, S. S. Attack on *2*:201
Panama Canal. Alleged violations of neutrality of *1*:207–211
———. Proclamation relating to neutrality of, and use by belligerent warships. *November 13, 1914* *1*:201
Panama–United States. Agreement concerning neutrality. *October 10, 1914* *1*:200
Papen, von, Captain. German military attaché. Recall of *2*:363–366
Passports. Circular instructions and correspondence relating to issuance of *1*:376–397
———. Disregard of American passports by belligerents *1*:262
Peel, The Sir William. (5 Wall. 517.) Cited *2*:77
Persia, S. S. Sinking of *2*:177

PETERHOF, THE. Cited *1*:118
PETROLITE, S. S. Attack on *2*:306
PIEPENBRINK, AUGUST. Removal of, from American vessel *1*:353–360
POLAND. Status of neutral consular officers in *2*:458
PORTUGAL–UNITED STATES. Correspondence respecting belligerent submarines in neutral waters *2*:342
PRATO, UGO DA. Military service case of *1*:369; *2*:464
PRINZ EITEL FRIEDRICH, German cruiser. Internment of *1*:349–350
———. Escape of officers and men from *2*:433–444
PRIZE COURTS, BRITISH:
Correspondence relating to American cases. *1*:55–83, 141, 143, 153, 163; *2*:58, 74. *See* MEAT PACKERS.
Costs and expenses *2*:87, 140
Evidence *2*:76, 125
———. *See* FORDNEY, S. S.
Practice and procedure *1*:77, 81; *2*:77, 125
———. Information for American claimants *2*:115–120
Proof *1*:58, 78; *2*:77, 125
PRIZES, ENEMY. Status before condemnation *1*:361–365
PRIZES, GERMAN. Right of entry into American ports *2*:387–403
PRIZES, neutral cargoes on. Destruction of *1*:180–193
PROCLAMATIONS of neutrality and papers relating to neutrality *1*:194–206
PRUSSIA–UNITED STATES. Interpretation of treaties of 1785 and 1799 relating to contraband of war and destruction of prizes *1*:180–193
———. Right of entry of German prizes in American ports *2*:387–403
RADIO STATIONS. Executive orders prohibiting transmission of unneutral messages. *August 5* and *September 5, 1914* *1*:270, 273
RECALL of Austrian Ambassador at Washington *2*:361–362
RECALL of German attachés at Washington *2*:363–366
REMOVAL OF ENEMY SUBJECTS from American vessels *1*:256, 353–360; *2*:427–432
REQUISITION OF SHIPS. Order in Council. *March 23, 1915* *1*:123
———. Order in Council. *November 10, 1915* *2*:108
RESTRAINTS ON COMMERCE. Correspondence respecting *1*:55–172; *2*:58–150
RETALIATORY MEASURES, legality of, as respects neutrals *1*:156; *2*:88, 136
RUSSIA:
Decree relating to Declaration of London. *September 1, 1914* *1*:31
———. *December 8, 1914* *1*:36
Lists of contraband of war *1*:31–37
RUSSIA–UNITED STATES. Correspondence respecting:
Armed merchant vessels and submarine warfare *2*:310, 336, 338
Belligerent submarines in neutral waters *2*:342
Declaration of London *1*:1–8
SAXON, THE. Discussed *2*:85, 139, 142
SEARCH, RIGHT OF. Correspondence *1*:58, 63, 74; *2*:75, 121
———. United States Navy Order. *August 18, 1862* *2*:89
SECRETARY OF STATE. Correspondence with Senate Committee respecting neutrality *1*:253–267

SEGURANCA, S. S. Seizure and detention of *1*:343–344
SENATE COMMITTEE ON FOREIGN AFFAIRS. Correspondence with Secretary of State respecting neutrality *1*:253–267
SERBIA. Status of neutral consular officers in *2*:453–457
SHIPS, REQUISITION OF. Order in Council. *March 23, 1915* *1*:123
———. Order in Council. *November 10, 1915* *2*:108
SPAIN–UNITED STATES. Correspondence respecting censorship of cable messages *1*:286, 300
SPRINGBOK, THE. Cited and discussed *1*:159; *2*:83
SUBMARINE WARFARE:
Correspondence with Austria-Hungary *2*:297–309
Correspondence with Germany *1*:129–141, 149, 155; *2*:161–202
Modus vivendi regarding, proposed by United States *1*:98, 100, 106
Status of belligerent submarines in neutral waters *2*:342
Warfare between armed merchant ships and submarines *2*:310–341
See WAR ZONE.
SUSSEX, S. S. Attack on *2*:181, 183, 186–200, 230–296
SWITZERLAND–UNITED STATES. Censorship of cable messages *1*:279–284
TELEGRAMS. Censorship of *1*:270–313
TENDERS TO WARSHIPS. Internment of *1*:245–252, 265, 361–365
———. *See* circular regarding the furnishing of supplies by. *September 19, 1914* *1*:235
TRADE with Germany. *See* FOODSTUFFS.
TRADING WITH THE ENEMY ACT. *1915* *2*:111
———. Correspondence regarding *2*:112–115
TREATY OF WASHINGTON. Rules of discussed *1*:222
TRENT CASE. Cited *1*:355, 356, 358; *2*:427, 432
TROOPS AND WAR MATERIAL. Shipment through United States *1*:264
TURKEY. Lists of contraband of war *1*:48–54
UNITED STATES:
Attitude toward Germany and Austria *1*:266
Circular instructions and correspondence relating to passports *1*:376–397
Circular relating to status of armed merchant vessels. *September 19, 1914* *1*:234
Circular relating to merchant vessels suspected of carrying supplies to belligerent vessels. *September 19, 1914* *1*:235
Executive orders prohibiting transmission of unneutral messages by radio stations. *August 5* and *September 5, 1914* *1*:270, 273
Memorandum on status of armed merchant vessels *2*:367–372
Navy order relative to right of search. *August 18, 1862* *2*:89
Proclamations of neutrality and papers relating to neutrality *1*:192–206
UNITED STATES–OTHER POWERS. *See* headings under other countries.
VESSELS detained by British authorities. Statement of. *September 10, 1915.* *2*:90, 140
See DETENTION of American ships.
VINLAND, S. S. Pursuit of, by British warships *2*:373–386
VIOLATION OF AMERICAN WATERS by British warships *2*:373–386
VISIT AND SEARCH. *See* SEARCH, RIGHT OF.

WAR MATERIAL. Exportation of:
Correspondence with Austria-Hungary *1*:146, 166; *2*:354
Correspondence with Germany *1*:90, 125–129, 217
Letter of Secretary of State to Senate Committee *1*:259
WARSHIPS, BELLIGERENT:
Circular concerning merchant vessels suspected of carrying supplies to. *September 19, 1914* *1*:235
Correspondence regarding the furnishing of supplies to *1*:212–221
Correspondence regarding the hovering of *1*:262; *2*:373–386
Correspondence regarding treatment of, at Panama Canal *1*:265
Correspondence regarding violations of neutrality by *1*:212–221
Joint Resolution concerning furnishing of supplies to. *March 4, 1915* *1*:205
Regulations concerning use of Panama Canal by. *November 13, 1914* *1*:201
WAR ZONE decree of Germany, and memorandum on retaliatory measures. *February 4, 1915* *1*:83
———. Correspondence relating to *1*:83–88, 90, 97, 99
———. Note regarding attacks on neutral vessels in *2*:161
See SUBMARINE WARFARE.
WASHINGTON, TREATY OF. Discussion of rules of *1*:222
WICO, S. S. Seizure and detention of *1*:345–348
WILHELMINA, S. S. Detention of cargo of *1*:173–179
WIRELESS, Censorship of *1*:255, 270–313
ZAMORA, THE. Cited *1*:164; *2*:84



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